

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

Juan Ramon Torres and Eugene Robison,

Plaintiffs,

vs.

SGE Management, LLC; Stream Gas & Electric, Ltd.; Stream SPE GP, LLC; Stream SPE, Ltd.; Ignite Holdings, Ltd; Chris Domhoff; Rob Snyder; Pierre Koshakji; Douglas Witt; Steve Flores; Michael Tacker; Donny Anderson; Trey Dyer; Steve Fisher; Randy Hedge; Brian Lucia; Logan Stout; Presley Swagerty;

and

SGE Energy Management, Ltd.; SGE IP Holdco, LLC; SGE Georgia Holdco, LLC; SGE Serviceco, LLC; SGE Consultants, LLC; Stream Georgia Gas SPE, LLC; Stream Texas Serviceco, LLC; SGE Ignite GP Holdco, LLC; SGE Texas Holdco, LLC; SGE North America Serviceco, LLC; PointHigh Partners, LP; PointHigh Management Company, LLC; Darryl Smith; Susan Anderson; Mark Dean; La Dohn Dean; A.E. "Trey" Dyer, III; Sally Kay Dyer; Dyer Energy, Inc.; Diane Fisher; Kingdom Brokerage, Inc.; Fisher Energy, LLC; Susan Fisher; Mark Florez; The Randy Hedge Companies Inc.; Murlle, LLC; Robert L. Ledbetter; Sue Ledbetter; Beth Lucia; Greg McCord; Heather McCord; Rose Energy Group, Inc.; Timothy W. Rose; Shannon Rose; LHS, Inc.; Haley Stout; Property Line Management, LLC; Property Line LP; Swagerty Management, LLC; Swagerty Energy, Ltd; Swagerty Enterprises, LP; Swagerty Enterprises, Inc.; Swagerty, Inc.; Swagerty Power, Ltd.; Jeannie

Complaint – Class Action

Civil Action No. 4:09-cv-2056

Jury Demanded

E. Swagerty; Sache, Inc.; Terry Yancy; and  
Shelba Yancy,  
  
Defendants.

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## SECOND AMENDED ORIGINAL CLASS ACTION COMPLAINT

Juan Ramon Torres and Eugene Robison, individually and on behalf of a class of similarly situated individuals, files this complaint against the defendants set out in ¶1.2 for damages and other relief under the Racketeer Influenced Corrupt Organizations Act 18 U.S.C. §§1961 – 1968 (“RICO”).

1. The defendants violated the RICO Act by defrauding thousands of individuals by creating, operating and maintaining a business that is an illegal pyramid scheme. Specifically, the defendants induced Torres, Robison and others to purchase “Ignite Compensation Plan” (the “Services Program”) for \$329. The Services Program is an illusory agreement that purports to entitle the purchaser to (a) sell the Services Program to others and (b) sign up others to switch their gas or electricity services to Stream.

2. In operating their illegal business, the defendants falsely represent that their business is legitimate. The defendants go so far as to claim that the Texas Attorney General has “confirmed the legitimacy” of their business.<sup>1</sup> That is false. As will be shown, the Services Program is a naked pyramid scheme. This complaint seeks to hold the defendants accountable for their fraud.

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<sup>1</sup> Robert L. Snyder, the head of Stream and Ignite, stated on July 1, 2009, “The fact that the Texas Attorney General’s office has previously confirmed the legitimacy of Stream Energy’s network marketing effort speaks volumes to the veracity of Mr. Clearman’s assertions [in a similar lawsuit filed in Texas].” <http://frontburner.dmagazine.com/2009/07/01/stream-energys-rob-snyder-responds-to-lawsuit/> (last viewed on Oct. 9, 2009). Ironically, while Snyder publically makes this representation, Ignite’s materials state “No attorney general or other regulatory authority ever reviews, endorses or approves the products and compensation plans of Ignite or any other company[.]” Ignite’s “*Policies and Procedures*,” “Things Every Ignite Associate Should Know.”

**1. PARTIES.**

**1.1 The plaintiffs.**

3. Juan Ramon Torres is a resident of Sweeny, Brazoria County, Texas.

4. Eugene Robison is a resident of Houston, Harris County, Texas.

**1.2 The defendants and a general description of their participation in the pyramid scheme.**

**1.2.1 "Stream Energy."**

5. "Stream Energy" is defined as that one entity that is comprised of SGE Management, LLC; Stream Gas & Electric, Ltd.; SGE Energy Management, Ltd.; SGE IP Holdco, LLC; SGE Georgia Holdco, LLC; Stream SPE, Ltd.; Stream Georgia Gas SPE, LLC; SGE Serviceco, LLC; SGE Texas Serviceco, LLC; SGE Ignite GP Holdco, LLC; SGE Texas Holdco, LLC; SGE North America Serviceco, LLC; Stream SPE GP, LLC; and SGE Consultants, LLC.

6. SGE Management, LLC is a Texas limited liability company with its principal place of business in Dallas, Dallas County, Texas. It has appeared here and responded to this case. The Chairman of SGE Management, LLC is defendant Robert L. Snyder.

7. SGE Management, LLC is the general partner of defendants Stream Gas & Electric, Ltd. (see below, in this section), SGE Energy Management, Ltd. (see below, in this section) and Ignite Holdings, Ltd. (see section 1.2.1.2).

8. Stream Gas & Electric, Ltd. is a Texas limited partnership with its principal place of business in Dallas, Dallas County, Texas. It has appeared here and responded to this case. Stream Gas & Electric, Ltd. does business as "Stream Energy."



9. Stream Gas & Electric, Ltd. owns 99% of defendant Stream SPE, Ltd. as a limited partner. Stream Gas & Electric, Ltd. also owns 100% of defendant Stream Georgia Gas SPE, LLC, the general partner of defendant Stream SPE, Ltd.

10. SGE Energy Management, Ltd. is a Texas limited partnership with its principal place of business in Dallas, Dallas County, Texas. SGE Energy Management, Ltd. may be served through its registered agent, Ray A. Balestri, 2651 N. Harwood, Suite 200, Dallas, Texas 75201. SGE Energy Management, Ltd. does business as "Ignite."

11. SGE IP Holdco, LLC is a Texas limited liability corporation with its principal place of business in Dallas, Dallas County, Texas. SGE IP Holdco, LLC may be served through its registered agent, Darrin Pfannenstiel, 1950 N. Stemmons Freeway, Suite 3000M, Dallas, Texas 75207.

12. SGE Georgia Holdco, LLC is limited liability corporation with its principal place of business in Dallas, Dallas County, Texas. SGE Georgia Holdco, LLC may be served through its registered agent, Darrin Pfannenstiel, 1950 N. Stemmons Freeway, Suite 3000N, Dallas, Texas 75207.

13. Stream SPE, Ltd. is a Texas limited partnership with its principal place of business in Dallas, Dallas County, Texas. It has appeared here and responded to this case. Its general partner is defendant Stream SPE GP, LLC.

14. Stream Georgia Gas SPE, LLC is a Georgia limited liability company with its principal place of business in Dallas, Dallas County, Texas. Stream Georgia Gas SPE, LLC may be served through its registered agent, Darrin Pfannenstiel, 1950 N. Stemmons Freeway, Suite 3000B, Dallas, Texas 75207. The manager of Stream Georgia Gas SPE, LLC is defendant Robert L. Snyder.

15. SGE Serviceco, LLC is a Texas limited liability company with its principal place of business in Dallas, Dallas County, Texas. SGE Serviceco, LLC may be served through its registered agent, Darrin Pfannenstiel, 1950 N. Stemmons Freeway, Suite 3000T, Dallas, Texas 75207. The manager of SGE Texas Serviceco, LLC is defendant Robert L. Snyder.

16. SGE Texas Serviceco, LLC is a Texas limited liability company with its principal place of business in Dallas, Dallas County, Texas. SGE Texas Serviceco, LLC may be served through its registered agent, Darrin Pfannenstiel, 1950 N. Stemmons Freeway, Suite 3000T, Dallas, Texas 75207. The manager of SGE Texas Serviceco, LLC is Lisa D. Holliday and/or defendant Robert L. Snyder.

17. SGE Ignite GP Holdco, LLC is a Texas limited liability company with its principal place of business in Dallas, Dallas County, Texas. SGE Ignite GP Holdco, LLC may be served through its registered agent, Darrin Pfannenstiel, 1950 N. Stemmons Freeway, Suite 3000D, Dallas, Texas 75207. The manager of SGE Ignite GP Holdco, LLC is defendant Robert L. Snyder.

18. SGE Texas Holdco, LLC is a Texas limited liability company with its principal place of business in Dallas, Dallas County, Texas. SGE Texas Holdco, LLC may be served through its registered agent, Darrin Pfannenstiel, 1950 N. Stemmons Freeway, Ste 3000E, Dallas, Texas 75207. The manager of SGE Texas Holdco, LLC is defendant Robert L. Snyder.

19. SGE North America Serviceco, LLC is a Texas limited liability company with its principal place of business in Dallas, Dallas County, Texas. SGE North America Serviceco, LLC may be served through its registered agent, Darrin Pfannenstiel, 1950

N. Stemmons Freeway, Ste 3000N, Dallas, Texas 75207. The manager of SGE North America Serviceco, LLC is defendant Robert L. Snyder.

20. Stream SPE GP, LLC is a Texas limited liability company with its principal place of business in Dallas, Dallas County, Texas. It has appeared here and responded to this case. The manager of Stream SPE GP, LLC is defendant Robert L. Snyder.

21. Stream SPE GP, LLC owns 1% of defendant Stream SPE, Ltd. and is its general partner.

22. SGE Consultants, LLC is a Texas limited liability company with its principal place of business in Plano, Collins County, Texas. SGE Consultants, LLC may be served through its registered agent, Simon G. Elias, 3709 Stoneway, Plano, Texas 75025.

23. In one fashion or the other, Stream earns its income from the sale of gas in Georgia and electricity in Texas. In each state, Stream is a retail energy provider, *i.e.*, it sells but does not create the energy it sells.

#### **1.2.2 “Ignite.”**

24. “Ignite” is Ignite Holdings, Ltd. is a Texas limited partnership with its principal place of business in Dallas, Dallas County, Texas. Its d/b/a is “Ignite Powered by Stream Energy. It has appeared here and responded to this case.

25. Ignite Holdings, Ltd. does business as “Ignite” and “Ignite Powered by Stream Energy.” Stream calls Ignite its marketing arm. Ignite earns its income from the sale of its Services Program. Its general partner is defendant SGE Management LLC controlled by defendant Robert L. Snyder. Thus Ignite Holding, Ltd.’s governing principal is Robert L. Snyder.

26. According to Ray Bickerstaff, an Ignite Executive Director, Stream Energy and Ignite have “two logos, [but are] one company.”

### **1.2.3 “Operators.”**

#### **1.2.3.1 What is an “Operator”?**

27. “Operators” mean the individual defendants who own, are employed by or are paid agents of Stream, Ignite or both

#### **1.2.3.2 “Snyder.”**

28. Robert L. Snyder has appeared here and responded to this case.

29. Snyder is a founder and partial owner of defendant SGE Management, LLC, and Torres and Robison believe and allege he has control over and a financial interest in each of the entities Stream Energy and Ignite comprise. Snyder earns income from Stream Energy and Ignite.

30. Snyder is also the “governing person” of PointHigh Partners, LP, a Delaware limited partnership. PointHigh Partners, LP, may be served through its registered agent, Robert. L. Snyder, 9330 Hollow Way Road, Dallas, Texas 75220. PointHigh Partners, LP’s general partner is defendant PointHigh Management Company, LLC (see below, in this section).

31. PointHigh Management Company, LLC is a Delaware limited liability corporation. PointHigh Management Company, LLC, may be served through its registered agent, defendant Robert. L. Snyder, 9330 Hollow Way Road, Dallas, Texas 75220.

32. PointHigh Partners, LP and PointHigh Management Company, LLC are in reality defendant Snyder. PointHigh Management Company, LLC purpose is the “Management of Limited Partnership Entities.” Torres and Robison believe and allege

that PointHigh Management Company, LLC has a financial interest in and control of Stream Energy and Ignite.

33. Snyder appears on an Ignite “Turning Energy Into Income” video intended to sell Ignite’s Service Program (e.g., <http://feg.igniteinc.biz>).

### **1.2.3.3 “Smith”**

34. Snyder has specifically requested that Torres and Robison sue Darryl Smith, the Senior Director of Field Operations. This occurred in an unsolicited email plaintiffs’ counsel received from defendant Snyder, acting on behalf of Stream Energy/Ignite:

From: Rob Snyder [mailto:[rob.snyder@i-d-p.net](mailto:rob.snyder@i-d-p.net)]  
Sent: Thursday, October 29, 2009 6:26 PM  
To: Scott Clearman  
Cc: Michael Hurst  
Subject: Problematic omission from RICO actions

I hate to bother you, but your recent lawsuits have caused a slight but nagging morale issue here at Stream Energy that I was hoping that you might resolve for me.

In your Federal RICO civil actions brought previously in Texas and today as a copycat suit in Georgia, you inexplicably fail to join as a defendant our Senior Director of Field Operations Darryl Smith -- one of the seniormost [sic] Ignite managers within Stream Energy, who is considered by us as essential to that marketing effort.

This failure is causing some problems for Smith's self-esteem, as Darryl has been with us in a senior capacity since our earliest days: but now is growing concerned that his significant contributions to the Ignite effort are somehow unappreciated by your Brain Trust.

As Darryl is indeed a most important member of our management team – as well as one of our firm's most significant manager-equityholders [sic]-- could you be a Good Sport and file amended petitions in these cases naming Darryl as a defendant?

I would be so greatly obliged if you were to make Darryl feel more included in this process. (The added benefit for your three clients my [sic] heeding this request is that most casual observers would probably agree

that such joinder would actually slightly enhance the legal, if not actual, intelligibility of these suits.)

Best regards.

Rob Snyder  
Stream Energy  
Dallas

35. Pursuant to Stream Energy/Ignite's request, through the companies' CEO, Snyder, Torres and Robison now sue Darryl Smith in this amended complaint. Darryl Smith is, according to Mr. Snyder, a Senior Director of Field Operations – "one of the seniormost [sic] Ignite managers within Stream Energy, who is considered by [Ignite/Stream] as essential to [their] marketing effort[s]." Ignite is the marketing arm of Stream Energy. Darryl Smith is also an equity holder in defendants Stream Energy and Ignite.

36. Darryl Smith may be served at his place of business, 1950 N. Stemmons Freeway, Suite 3000, Dallas, Dallas County, Texas 75207.

**1.2.3.4 "Domhoff."**

37. Chris Domhoff has appeared here and responded to this case.

38. Domhoff is, on information and belief, a co-founder and partial owner of defendant SGE Management, LLC and all of the other entities defendants Stream Energy and Ignite comprise. He oversaw all of Stream Energy's and Ignite's marketing functions. Together with defendant Douglas Witt (see §1.2.3.6, below), Domhoff is the co-architect of the Ignite Compensation Plan (*i.e.*, the Services Program) and its training program. Domhoff earns his income from Stream and Ignite.

39. Prior to Domhoff's involvement with Stream and Ignite, he was the Vice President of Global MLM Marketing for Excel Telecommunications, an international

direct seller of telecommunications. During his six-year tenure at Excel, Domhoff was responsible for the strategic development of marketing, training, recruiting and communications functions for the company. As will be shown, Domhoff used his Excel channels to recruit participants in Ignite.

40. Domhoff is now the Chief Executive Officer of Momentis U.S. Corp., his third “network marketing business.” Momentis is the marketing arm of Just Energy. On information and belief, Momentis, like Ignite, is a pyramid scheme.

**1.2.3.5 “Koshakji.”**

41. Pierre Koshakji has appeared here and responded to this case.

42. Pierre Koshakji is a co-founder and partial owner of defendant SGE Management, LLC and all of the entities defendants Stream Energy and Ignite comprise. Koshakji has been directly responsible for all areas of operations support, payment systems, human resources and firm administration for defendant SGE Management, LLC. Koshakji had secondary responsibility for SGE Management, LLC's finances, fundraising, legal matters and regulatory affairs. Koshakji earns his income from Stream Energy and Ignite.

**1.2.3.6 “Witt.”**

43. Douglas Witt has appeared here and responded to this case.

44. Witt is defendant Stream Gas & Electric, Ltd.'s senior Director of Marketing Operations. Witt had responsibility for the oversight of all Ignite operational and field activities (including recruiting, training and events, field leadership and the development and implementation of corporate presentations, marketing materials and management tools). Together with Domhoff, he is a co-architect of Ignite's compensation and training program. Witt earns his income from Stream Energy and Ignite.

45. Witt was an independent marketing director with Excel Communications, Inc. for nearly a decade. Due to his prowess as a sales organization leader in Excel, Witt consistently ranked in the top ten percent of the company's money earners and Excel appointed him to develop and lead Excel's national field leadership team. In this role, Witt conceptualized and wrote field training manuals and videos, planned and coordinated quarterly training/team-building conferences with corporate staff, and trained in excess of 10,000 field representatives at corporate events, leadership conferences and weekly training meetings nationwide.

46. Witt is a founder and partial owner of defendant SGE Management, LLC and all of the entities Stream Energy and Ignite comprise.

**1.2.3.7 “Flores.”**

47. Steve Flores has appeared here and responded to this case.

48. Flores is Stream Gas & Electric, Ltd.'s Senior Director - Associate Support & Facilities Planning. Flores provided overall strategic and day-to-day oversight for all aspects of Ignite's directors support operations (including policies, procedures and administrative systems to support Ignite business activity and organizational goals). Flores earns his income from Stream Energy and Ignite.

49. Flores is a founder and partial owner of defendant SGE Management, LLC and all of the entities Stream Energy and Ignite comprise.



**1.2.3.8 “Tacker.”**

50. Michael Tacker has appeared here and responded to this case.

51. Tacker has been defendant Stream Gas & Electric, Ltd.’s Director of Field Development. In that position, Tacker had responsibility for directing the firm's entry strategies into new markets with a primary focus on expanding markets for the Ignite organization. In this role, he has acted as an "in the field" mentoring coach to help Ignite Directors sell the Services Program. Tacker earns his income from Stream Energy and Ignite.

52. Tacker is a founder and partial owner of defendant SGE Management, LLC and all of the entities that comprise Stream Energy and Ignite.

**1.2.3.9 “Thies.”**

53. Paul Thies may be served at his place of business, 1950 N. Stemmons Freeway, Suite 3000, Dallas, Dallas County, Texas 75207.

54. Thies is responsible for supporting Ignite’s sales force and dealing with communications from the corporate office of Stream Energy. Thies earns his income from Stream and Ignite.

55. Thies, on information and belief, is a founder and partial owner of defendant SGE Management, LLC and all of the entities defendants Stream Energy and Ignite comprise.

**1.2.4 The “Presidential Directors.”**

**1.2.4.1 What is a “Presidential Director”?**

56. There are approximately nineteen Presidential Directors out of 110,000 Directors in the pyramid. That means that each Presidential Director, on average, has

9177 Directors in his “downline,” i.e., individuals who joined the Ignite pyramid below him or her. The Presidential Directors are the top .01% of the Ignite pyramid.

**1.2.4.2 “Andersons.”**

57. Donny Anderson has appeared here and responded to this case.

58. Donny Anderson, wife, Susan Anderson, may be served at her place of business, 1950 Stemmons Freeway, Suite 3000, Dallas, Dallas County, Texas 75207.

59. The Andersons are “Presidential Directors” of Ignite. Donny and Susan Anderson, severally and jointly, perform tasks in furtherance of the pyramid scheme alleged below and hereafter will be collectively referred to as “Andersons.” Andersons are among the first individuals to sell the Ignite Services Program. Andersons earns income from it and its downline’s sale of the Services Program.

60. Andersons routinely advertise Ignite’s Service Program though <http://media.igniteinc.com> by giving their phone number (214-417-1344) and their email address ([andersonignite@gmail.com](mailto:andersonignite@gmail.com)).

61. Donny Anderson appears on an Ignite “Turning Energy Into Income” video intended to sell Ignite’s Service Program (e.g., <http://feg.igniteinc.biz>).

62. Andersons also host a website to market Ignite’s Services Program (<http://hstrial-ignite.intuitwebsites.com/contact.html>).

**1.2.4.3 “Dean.”**

63. Mark Dean’s residential address is unknown. He may be served at his place of business, 1950 Stemmons Freeway, Suite 3000, Dallas, Dallas County, Texas 75207.

64. The residential address for Mark Dean's wife, La Dohn Dean, is also unknown. She may be served at her place of business, 1950 Stemmons Freeway, Suite 3000, Dallas, Dallas County, Texas 75207.

65. The Deans are "Presidential Directors" of Ignite. Mark and LaDohn Dean, severally and jointly, perform tasks in furtherance of the pyramid scheme alleged below and hereafter will be collectively referred to as "Dean." Dean was among the first to sell the Services Program. Dean earn income from it and its downline's sale of the Services Program.

**1.2.4.4 "Dyer."**

66. A. E. "Trey" Dyer III has appeared here and responded to this case.

67. Trey Dryer III's wife, Sally Kay Dyer, may be served at her place of business, 1950 Stemmons Freeway, Suite 3000, Dallas, Dallas County, Texas 75207 or at her residence, 713 PR 2482, Baird, Texas 79504.

68. Dyer Energy, Inc. may be served through its registered agent, A. E. "Trey" Dyer III, 713 PR 2482, Baird, Texas 79504.

69. Trey Dyer is also employed by defendant SGE Management, LLC or one of its subsidiaries as Director of Operations. It is alleged that SGE Management, LLC made him a Senior, and then an Executive, Director and now a Presidential Director to give him credibility in his sales of the Services Program. Dyer Energy, Inc., Trey and Sally Dyer, now Presidential Directors, severally and jointly, perform tasks in furtherance of the pyramid scheme alleged below and hereafter will be collectively referred to as "Dyer."

70. Dyer routinely advertises Ignite's Service Program though <http://media.igniteinc.com> by giving their phone number (325-829-8739) and email address (trej.dyer@gmail.com).

71. Dyer is also employed by Stream, Ignite or both and thus is also "Operators" as defined above.

**1.2.4.5 "Fisher."**

72. Steve L. Fisher has appeared here and responded to this case.

73. Steve Fisher's wife, Diane Fisher, may be served at her residence, 4711 Cranbrook Drive East, Colleyville, Tarrant County, Texas 76034.

74. The company Steve and Diane Fisher own and manage, Kingdom Brokerage, Inc., may be served though its registered agent, Steven L. Fisher, 4711 Cranbrook Drive East., Colleyville, Tarrant County, Texas 76034.

75. Another company owned and managed by the Fishers, Fisher Energy, LLC may be served though its registered agent, Steven L. Fisher, 4711 Cranbrook Drive East, Colleyville, Tarrant County, Texas 76034.

76. Steve L. Fisher, Diane Fisher, Kingdom Brokerage, Inc., and/or Fisher Energy, LLC routinely advertise Ignite's Service Program through websites ([www.fisherenergygroup.blogspot.com](http://www.fisherenergygroup.blogspot.com), [www.feg.igniteinc.biz](http://www.feg.igniteinc.biz)), phone (817-845-0994) and email (fisherignited@gmail.com).

77. The Fishers are "Presidential Directors" of Ignite. Kingdom Brokerage, Inc., Steve and Diane Fisher, severally and jointly, perform tasks in furtherance of the pyramid scheme alleged below and hereafter will be collectively referred to as "Fisher." Fisher was among the first to sell the Services Program. The Fishers earn their income from their and their downline's sale of the Services Program.

78. Steve Fisher is a professional salesperson. It is alleged and believed that he is an owner of or employed by defendant SGE Management, LLC or one of its subsidiaries as Director of Operations. It is alleged that SGE Management, LLC first placed him in Ignite as an Executive and then as a Presidential Director to give him credibility in his sales of the Services Program.

79. The Fishers routinely advertise Ignite's Service Program though [www.feg.igniteinc.biz](http://www.feg.igniteinc.biz) and [www.ignitebeachmoney.com](http://www.ignitebeachmoney.com).

**1.2.4.6 "Susan Fisher."**

80. Susan Fisher's relationship, if any, to defendants Steve and Diane Fisher, is unknown. Susan Fisher's residential address is unknown. She may be served, however, at her place of business, 1950 Stemmons Freeway, Suite 3000, Dallas, Dallas County, Texas 75207.

81. Susan Fisher is a "Presidential Director" of Ignite. She is instrumental in selling the Services Program in Georgia and Texas. Susan Fisher earns her income from her, and her downline's, sale of the Services Program.

82. Susan Fisher routinely advertises Ignite's Service Program though <http://media.igniteinc.com> by giving her phone number (817-253-8809).

**1.2.4.7 "Florez"**

83. Mark Florez's residential address is unknown. He may be served at his place of business, 1950 Stemmons Freeway, Suite 3000, Dallas, Dallas County, Texas 75207.

84. Florez is a "Presidential Director" of Ignite. He is instrumental in selling the Services Program in Georgia and Texas. Florez earns his income from his and his downline's, sale of the Services Program.

**1.2.4.8 “Hedge,” a/k/a the “Cowboy.”**

85. The Randy Hedge Companies Inc. is an Arkansas corporation with its principal place of business in Texas, Arkansas or Georgia. The Randy Hedge Companies Inc. may be served through its registered agent, Randy Hedge, 324 DeQueen Lake Road, Sevier County, DeQueen, Arkansas 71832. The Randy Hedge Companies, Inc. was created on August 1, 2006 while Randy Hedge was in a Chapter 7 bankruptcy that proceeded from October 12, 2005 to July 28, 2008.

86. Randy Hedge has appeared here and responded to this case.

87. Randy Hedge is a “Presidential Director” of Ignite. He was one of the first individuals to sell the Services Program. The Randy Hedge Companies Inc. and Randy Hedge jointly perform tasks in furtherance of the pyramid scheme alleged below and will be jointly called either “Hedge” or the “Cowboy” (discussed below).

88. Hedge is a professional salesperson with a history of selling multilevel marketing businesses. Hedge never discloses this when recruiting new persons to Ignite. Instead, he plays the role of the “Cowboy,” a simple man who impliedly first participated in a multilevel marketing business when he joined Ignite. However, prior to working with Ignite, he marketed another multilevel marketing business, Excel Communications. In 2003, he was a top leader in Excel’s sales force. After Excel went into bankruptcy, Domhoff hired Hedge to work for Ignite as a professional sales person. Hedge earns his income from his, and his downline’s, sale of the Services Program. He also earns a commission from his, and his downline’s, enrollment of new customers to Stream/Ignite.

89. Hedge routinely advertises Ignite’s Service Program though [www.cowboy.igniteinc.biz](http://www.cowboy.igniteinc.biz).

**1.2.4.9 “Ledbetter.”**

90. Murelle, LLC is a Texas limited liability corporation with its principal place of business in Denton County, Texas. Murelle, LLC may be served through its registered agent, Sue A. Murray, 900 Mallard Way, Flower Mound, Denton County, Texas 75028. Murelle, LLC is, on information and belief, owned and operated by the Ledbetter defendants discussed in this section.

91. Robert L. Ledbetter may be served at his residence, 900 Mallard Way, Flower Mound, Denton County, Texas 75028.

92. Robert Ledbetter’s wife, Sue Ledbetter, may be served at her residence, 900 Mallard Way, Flower Mound, Denton County, Texas 75028.

93. Robert and Sue Ledbetter, individually and through Murelle, LLC are “Presidential Directors” of Ignited. They were among the first individuals to sell the Services Program. Murelle, LLC, Robert L. Ledbetter, and/or Sue Ledbetter severally and/or jointly perform tasks in furtherance of the pyramid scheme alleged below and will be referred to collectively as “Ledbetter.” Ledbetter earns income from its and its downline’s, sale of the Services Program.

**1.2.4.10 “Lucia.”**

94. Brian Lucia has appeared here and responded to this case.

95. Brian Lucia’s wife, Beth Lucia, may be served at her residence, 3409 Provine Rd., McKinney, Collin County, Texas 75070.

96. The Lucias are “Presidential Directors” of Ignite. Brian and Beth Lucia, severally and jointly, perform tasks in furtherance of the pyramid scheme alleged below and hereafter will be collectively referred to as “Lucia.” Lucia were among the first

individuals to sell the Services Program. Lucia earn their income from their and their downline's, sale of the Services Program.

97. Brian Lucia is also employed by defendant SGE Management, LLC or its subsidiaries or affiliates as Director of Operations. It is alleged SGE Management, LLC first placed him and his wife Beth Lucia in Ignite as Senior Directors and then as Executive Directors and now as Presidential Directors to give them credibility in their sales of the Services Program.

98. Lucia routinely advertise Ignite's Service Program though [http://media.igniteinc.com/opp\\_vid/english\\_BrianLucia.html](http://media.igniteinc.com/opp_vid/english_BrianLucia.html) by giving their phone number (214-458-5100).

99. Lucia is also employed by Stream, Ignite or both and thus is also "Operators" as defined above.

#### **1.2.4.11 "McCord."**

100. Greg McCord's residential address is unknown. He may be served at his place of business, 1950 Stemmons Freeway, Suite 3000, Dallas, Dallas County, Texas 75207.

101. Greg McCord's wife, Heather McCord's, residential address is unknown. She may be served at her place of business, 1950 Stemmons Freeway, Suite 3000, Dallas, Dallas County, Texas 75207.

102. The McCords are "Presidential Directors" of Ignite. Greg and Heather McCord, severally and jointly, perform tasks in furtherance of the pyramid scheme alleged below and hereafter will be collectively referred to as "McCord." They were among the first individuals to sell the Services Program. McCord earn their income from their, and their downline's, sale of the Services Program.



103. McCord routinely advertise Ignite's Service Program though <http://media.igniteinc.com> by giving their phone number (972-670-3130) and email address ([gmccord352@sbcglobal.net](mailto:gmccord352@sbcglobal.net)).

104. Greg McCord appears on an Ignite "Turning Energy Into Income" video intended to sell Ignite's Service Program and routinely advertises Ignite's Service Program though <http://gregmccord.igniteinc.biz>, where he also gives his phone number (972-670-3130) and email address ([gmccord310@gmail.com](mailto:gmccord310@gmail.com) and/or [gmccord352@sbcglobal.net](mailto:gmccord352@sbcglobal.net)).

**1.2.4.12 "Rose."**

105. Rose Energy Group, Inc. is a Texas corporation with its principal place of business in Smith County, Texas. Rose Energy Group, Inc. may be served through its registered agent, Timothy W. Rose, 13604 CR 2216, Smith County, Tyler, Texas 75707. On information and belief, defendants Timothy W. Rose and Shannon Rose (see below, in this section) own and manage Rose Energy Group, Inc.

106. Timothy W. Rose may be served at his place of business, 13604 CR 2216, Smith County, Tyler, Texas 75707.

107. Timothy Rose's wife, Shannon Rose, may be served at her place of business, 13604 CR 2216, Smith County, Tyler, Texas 75707.

108. Timothy and Shannon Rose, individually and through Rose Energy Group, Inc. are "Presidential Directors" of Ignite. Rose Energy Group, Inc., Timothy W. Rose and Shannon Rose severally and/or jointly perform tasks in furtherance of the pyramid scheme alleged below and hereafter will be collectively referred to as "Rose." Rose was among the first to sell the Ignite Services Program. Rose earn income from its and its downline's sale of the Services Program.

109. Rose routinely advertise Ignite's Service Program though <http://media.igniteinc.com>.

**1.2.4.13 "Stout."**

110. LHS, Inc. is a Texas corporation with its principal place of business in Texas. LHS, Inc. may be served through its registered agent, Logan Stout, 1803 Park Meadow Lane, Dallas County, Richardson, Texas 75081. On information and belief, defendants Logan and Haley Stout (see below, in this section) own and manage LHS, Inc.

111. Logan Stout has appeared here and responded to this case.

112. Logan Stout's wife, Haley Stout's, residential address is unknown. She may be served at her place of business, 1950 Stemmons Freeway, Suite 3000, Dallas, Dallas County, Texas 75207.

113. Logan and Haley Stout, individually and through LHS, Inc. are "Presidential Directors" of Ignite. LHS, Inc., Logan Stout, and Haley Stout severally and/or jointly perform tasks in furtherance of the pyramid scheme alleged below and hereafter collectively will be referred to as "Stout." Stout were among the first to sell the Services Program. Stout earns income from its and its downline's sale of the Services Program.

**1.2.4.14 "Swagerty."**

114. Property Line Management, LLC is a Texas limited liability company with its principal place of business in Sachse, Texas. Property Line Management, LLC may be served through its registered agent, David Flynn, 1417 Fourth Street, Young County, Graham, Texas 76048. Defendant Presley Swagerty (see below, in this section) is the manager and director of Property Line Management, LLC.

115. Property Line LP is a Texas limited partnership with its principal place of business in Sachse, Texas. Property Line LP may be served through its registered agent, David Flynn, 1417 Fourth Street, Young County, Graham, Texas 76048. Defendant Property Line Management, LLC is the general partner of Property Line LP.

116. Swagerty Management, LLC is a Texas limited liability company with its principal place of business in Sachse, Texas. Swagerty Management, LLC may be served through its registered agent, David Flynn, 1417 Fourth Street, Young County, Graham, Texas 76048. Presley Swagerty is also the president of defendant Swagerty Management, LLC.

117. Swagerty Energy, Ltd. is a Texas limited partnership with its principal place of business in Sachse, Texas. Swagerty Energy, Ltd. may be served through its registered agent, David Flynn, 1417 Fourth Street, Young County, Graham, Texas 76048. Defendant Swagerty, Inc. (see below, in this section) is the general partner of Swagerty Energy, Ltd.

118. Swagerty Enterprises, LP is a Texas limited partnership with its principal place of business in Sachse, Texas. Swagerty Enterprises, LP may be served through its registered agent, David Flynn, 1417 Fourth Street, Young County, Graham, Texas 76048. Defendant Swagerty Management, LLC (see above, in this section) is the general partner of Swagerty Enterprises, LP.

119. Swagerty Enterprises, Inc. is a Texas corporation with its principal place of business in Sachse, Texas. Swagerty Enterprises, Inc. may be served through its registered agent, David Flynn, 1345 Highway 16 South, Graham, Texas 76050.

120. Swagerty, Inc. is a Texas corporation with its principal place of business in Sachse, Texas. Swagerty, Inc. may be served through its registered agent, David Flynn, 1417 Fourth Street, Young County, Graham, Texas 76048. Presley Swagerty and defendant Jennie Swagerty (see below, in this section) are the Directors of Swagerty, Inc.

121. Swagerty Power, Ltd. is a Texas limited partnership with its principal place of business in Sachse, Texas. Swagerty Power, Ltd. may be served through its registered agent, David Flynn, 1417 Fourth Street, Young County, Graham, Texas 76048. Defendant Swagerty Inc. (see above in this section) is Swagerty Power, Ltd.'s general partner.

122. Sachse Inc. is a Texas corporation with its principal place of business in Sachse, Texas. Sachse Inc. may be served through its registered agent, David Flynn, 1417 Fourth Street, Young County, Graham, Texas 76048.

123. Presley Swagerty, a/k/a "the Coach," has appeared here and responded to this case.

124. Presley Swagerty's wife, Jeanie E. Swagerty, is a vice president and director of defendant Swagerty Inc. (see above in this section). Jeanie E. Swagerty may be served at 3410 Merritt Road, Sachse, Texas, 75048.

125. Presley and Jeanie Swagerty, individually and through Property Line Management, LLC, Property Line LP, Swagerty Management, LLC, Swagerty Energy, Ltd., Swagerty Enterprises, LP, Swagerty Enterprises, Inc., Swagerty, Inc., Swagerty Power, Ltd. and Sachse Inc., are "Presidential Directors" of Ignite.

126. Presley Swagerty, Jeanie Swagerty, Property Line Management, LLC, Property Line LP, Swagerty Management, LLC, Swagerty Energy, Ltd., Swagerty Enterprises, LP, Swagerty Enterprises, Inc., Swagerty, Inc., Swagerty Power, Ltd. and/or Sachse Inc., severally and/or jointly, perform tasks in furtherance of the pyramid scheme alleged below and hereafter collectively will be referred to as "Swagerty." Swagerty were among the first to sell the Services Program. Swagerty earn income its and its downline's sale of the Services Program.

127. Like defendant Hedge (see §1.2.4.8, above), Presley Swagerty is a professional salesperson with a history of selling multilevel marketing businesses. Presley Swagerty never discloses this when recruiting new persons into Ignite. Instead, Presley plays the role of the "Coach," a simple man who impliedly first participated in a multilevel marketing business when he joined Ignite. However, prior to working with Ignite, Presley marketed another multilevel marketing business, Excel Communications. In 2003, he was a top leader in Excel's sales force.

128. After Excel went into bankruptcy, defendant Domhoff (see §1.2.3.4, above) hired Presley Swagerty to work for Ignite as a professional salesperson.

129. Presley and Jeanie Swagerty appear on an Ignite's "Turning Energy Into Income" video intended to sell Ignite's Service Program (e.g., <http://feg.igniteinc.biz>).

130. Swagerty routinely advertise Ignite's Service Program though <http://swagerty.igniteinc.biz> (under the name of Jeanie Swagerty). Swagerty also run <http://presleyswagerty.info/listen.html>, which advertises Ignite's Service Program.

**1.2.4.15 “Yancy.”**

131. Terry Yancy’s residential address is unknown. He may be served at his place of business, 1950 Stemmons Freeway, Suite 3000, Dallas, Dallas County, Texas 75207.

132. Terry Yancy’s wife, Shelba Yancy’s, residential address is unknown. She may be served at her place of business, 1950 Stemmons Freeway, Suite 3000, Dallas, Dallas County, Texas 75207.

133. The Yancys are “Presidential Directors” of Ignite. Terry and Shelba Yancy severally and/or jointly, perform tasks in furtherance of the pyramid scheme alleged below and hereafter collectively will be referred to as “Yancy.” They were among the first individuals to sell the Services Program. Yancy earn income from their and their downline’s sale of the Services Program.

134. Yancy routinely advertises Ignite’s Service Program though <http://media.igniteinc.com> and attending Ignite meeting in Lake Jackson, Texas.

**2. JURISDICTION AND VENUE.**

135. The defendants are subject to the jurisdiction of this Court. The defendants continuously and systematically engaged, and engage, in business in Texas. The defendants do business as individuals, limited partnerships or limited liability companies in Texas. Some of the defendants have designated agents for service of process in Texas and have committed fraudulent acts in Texas. In accordance with 18 U.S.C. § 1965(a) and (b), the defendants are subject to this Court’s jurisdiction in that they “transact affairs” in the Southern District of Texas, and “the ends of justice require that other parties residing in any other district be brought before the Court, the Court may cause such parties to be summoned, and process for the purpose may be served in any

judicial district of the United States by the marshal thereof.” 18 U.S.C. § 1965(a), (b) and (c). The Court also has jurisdiction over this action under 28 U.S.C. § 1331 as it presents one or more federal questions and 28 U.S.C. § 1337 because it concerns the regulation of commerce.

136. Venue is proper in this District and this Court has personal jurisdiction over the defendants pursuant to 18 U.S.C. § 1965(a) and 28 U.S.C. § 1391(b) as the defendants are citizens of, residents of, are found within, have agents within, are doing business in, and/or transact their affairs in this District, and the activities of the defendants which give rise to the claims for relief occurred in this District. Torres and Robison are residents of this District.

### **3. BACKGROUND ON SEVERAL OF THE DEFENDANTS’ PARTICIPATION IN EXCEL COMMUNICATIONS, INC.**

137. Before explaining the defendants’ current pyramid scheme, it is helpful to understand when and how some of the defendants first participated in another multilevel marketing program (a/k/a a pyramid scheme), Excel Communications, Inc. (“Excel”). As stated above, Domhoff and Witt were instrumental in the marketing of Excel, a multilevel marketing program for phone services. When creating the Ignite Services Program, Snyder hired Domhoff and Witt to replicate Excel’s marketing program. As discussed in the following section (§ 3), the Excel program was almost identical to the present Stream/Ignite system in several respects including the following.

138. Under the Excel compensation program, an individual first paid a fee to become an Excel representative. In return for an individual’s payment of the fee of between \$299 and \$398, the representative earned the right to sign up others as Excel representatives.

139. Excel promised "immediate income" and "long-term residual income," with "unlimited income potential." Excel paid its representatives \$1,200 when they signed up three other persons to become Excel Senior Representative and each of those representatives signed up eight phone customers. The Excel representatives also received a commission from those in their "downline." Excel had five levels of representatives: Senior Representative, Regional Director, Executive Director, Senior Director and Executive Senior Director. A person started as a Senior Representative and moved up the organization by getting others to become Excel representatives. Excel represented its program had "serious income potential" and that this income could be earned to "unlimited levels."



140. Presley Swagerty and Randy Hedge were Excel Senior Directors from at least December of 1998 until Excel's bankruptcy in 2004.<sup>2</sup> They were chiefly responsible for promoting Excel through speeches. In their speeches, they explained

<sup>2</sup>

See <http://www.excelwithus.com/BoEN/pro/xl66.htm> (Hedge involved prior to November 13, 1998) (last viewed on Oct. 27, 2009) & <http://www.excelwithus.com/BoEN/pro/xl69.htm> (Swagerty involved prior to December 19, 1998) (last viewed on Oct. 27, 2009).



how they, by joining Excel, they made a large amount of money. For example, Swagerty explained that he was a high school coach who left his teaching job to pursue his Excel business exclusively. Consider Swagerty's following "testimonial" published by Excel:

Presley had already been working Excel part time for over a year when he finally left coaching. He told his wife, Jeanie, "I love coaching, but when your part-time Excel business pays more than your full-time job, it's time to focus your energies on Excel."

You might say that Presley never really left the coaching profession, but merely switched arenas. His experience on the court translated directly into success with Excel. Using the mentoring habits he'd already mastered, Presley incorporated emotional balance, one-on-one training and special player recognition into his overall business game plan. No wonder the attendees at his local Team Excel meetings have long referred to him as "Coach Swagerty."

As he presently restricts his competitive skills to the business arena, Presley now attends sporting events only as a spectator. Yet the memories of those endless nights of standing courtside, including that one game in particular, still serve as powerful reminders. Presley emphasizes to prospects that his old team may have missed the championship by one shot, but that no one need miss the shot in changing his or her life with Excel.<sup>3</sup>

141. Excel, like Stream/Ignite, also used Swagerty to draw persons to purchase the right to be an Excel representative. Here is an example of a Swagerty presentation on behalf of Excel:

"People are looking to make more money and change their lives," Swagerty says - and the 200 people gathered in the suburban Dallas hotel on a Tuesday evening fit the bill.

Swagerty, wearing a wireless microphone as he walks around the stage, has just the answer for them - a "tremendous financial opportunity" that allowed him to quit his job, become his own boss, work fewer hours and

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<sup>3</sup> See [http://users.myexcel.com/focusu/written\\_testimonials.htm](http://users.myexcel.com/focusu/written_testimonials.htm) (last viewed on Oct. 12, 2009).

spend more time with his family. He now has a retirement nest egg and can finance his kids' college education.

"I'm nothing special - anybody in this room can do what I did," the plain-talking Texan says to a burst of applause.

All they have to do is join Excel Communications Inc., an unorthodox company that sells long-distance service the way Amway peddles household products - through independent representatives who sign up customers - and recruit as many other reps as they can - from among friends and family.

As Swagerty extols Excel's virtues, a world map showing a Montreal company's telecommunications network suddenly flashes on a screen behind him.

The pumped-up audience hoots and hollers. Some jump to their feet, as Swagerty points at Teleglobe Inc.'s impressive jumble of satellites, earth stations and under-sea cables, a network that reaches 240 countries.

Now that Excel has merged with Teleglobe, Swagerty says, the possibilities are limitless. Excel's 300,000-strong army of reps can now target Germany, Britain, France, Japan and Italy.

142. Excel, like Stream/Ignite, also employed Hedge to persuade individuals to pay the required fee and become an Excel representative:

To really get a sense of life in the Hedge family, you first need to travel to their hometown of DeQueen, Arkansas. Nestled about an hour northwest of Texarkana, DeQueen (population 5,000) is tucked away from the encroachments of the city and life here has a mild pace. In a community this size, you may think it is near impossible to build a top money earner Excel business. That is, until you meet Randy Hedge.

Prior to Excel, Randy was the owner and operator of two insurance agencies. But, according to Randy, while he found financial comfort, "I didn't have the quality of life I wanted. I didn't feel like I had enough time for my family." He had been aware of the Excel Opportunity for some time before making the decision to join, and when he was ready, he aggressively sought out the person who eventually sponsored him.

"It was a little hard at first," admits Randy. "People that I loved, admired and respected thought I had lost my mind. But I was committed to doing it." Because of his dedication, Randy began quickly proving to everyone

that his decision was the right one — after four months with Excel, he was able to retire one of his insurance agencies.<sup>4</sup>

143. Hedge was not as successful as he claimed. In 2005, he filed for bankruptcy.

144. On March 24, 1997, *Forbes* reported that Excel was nothing more than a pyramid scheme. Indeed, Excel could not exist without the money it received from persons who purchased the right to be an Excel representative.<sup>5</sup> As *Forbes* stated, “In the manner of a chain-letter scheme, the pyramid relies on a stream of new recruits for its prosperity. The company netted a fat \$144 million on revenue of \$1.4 billion last year. Minus the \$195 recruiting fees, though, Excel would have been in the red.” Essentially, other than through its recruiting fee, Excel was an unprofitable business. Excel went into bankruptcy on November 1, 2004.

#### **4. THE IGNITE SERVICES PROGRAM IS A PYRAMID SCHEME PATTERNED AFTER EXCEL.**

##### **4.1 The Ignite Services Program’s compensation structure.**

145. Stream and Ignite’s pyramid scheme started in Texas and has now expanded to Georgia. Thus, the discussion of what has occurred in Texas is necessary to understand what is and will be happening in Georgia.

146. When Texas deregulated electricity, Snyder decided to start an energy company, Stream. He understood that under deregulation, there would be strenuous competition for customers and that the profit margin available to Stream would be slight. So Snyder decided to take an alternative path: make money not from electricity, but

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<sup>4</sup> [http://web.archive.org/web/20020603085318/www.excel.com/us/excel\\_opp\\_testimonials2.asp](http://web.archive.org/web/20020603085318/www.excel.com/us/excel_opp_testimonials2.asp) (last viewed on Oct. 12, 2009).

<sup>5</sup> <http://www.forbes.com/forbes/1997/0324/5906063a.html> (last viewed on Oct. 12, 2009).

from the revenues that Ignite would earn by creating a pyramid scheme similar to Excel. To accomplish his goals, Snyder hired Domhoff and Witt, the architects of the Excel compensation program. In turn, Domhoff and Witt created the Ignite Services Program, a near perfect replica of the Excel compensation program. It is so similar, that even the very words the defendants use with respect to Ignite are the same as those used by Excel.

147. The defendants describe Ignite as Stream's multilevel marketing program. Ignite provides Stream with a sales force. Ignite sells persons its "Services Program." A person who buys in Ignite's Services Program becomes a member of Ignite's sales force. Ignite compensates these members for each person he recruits that buys in the Services Program. Ignite pays each member, not only for the members they recruit into the sales force, but also for the recruits of those recruits, *etc.*, creating a downline and a hierarchy of multiple levels of compensation. Separately, Stream compensates Ignite's directors by paying commissions based upon their and their downline's sales of Stream electricity and gas. The sales force markets the Services Program and Stream's gas or electricity through relationship referrals and word of mouth marketing.

148. At the bottom level of the Ignite's pyramid are "Associates" or "Directors." For convenience, both here will be called "Directors." A person becomes a "Director" when a current member of the pyramid, a "Sponsor," recruits him and he pays \$329 in the pyramid by purchasing the Services Program. Joining the pyramid and purchasing the Services Program entitles the newly minted Director to (a) sign up recruits who will also pay \$329 to purchase the Services Program and join the pyramid and (b) sign up customers to use Stream electricity or gas.

149. The way recruits join the pyramid is by logging into their Sponsor's "Ignite Homesite" and paying \$329 for the Services Program. Ignite also encourages Directors to switch to Stream as their electricity or gas provider, or both. Ignite also essentially requires each new Director to make a further payment of \$24.95 a month for their own "Ignite Homesite." As Ignite states, "it's hard to imagine running a successful business without" also purchasing and maintaining an Ignite Homesite. Swagerty, while mentioning that the company says Ignite Homesite is optional, states, "it ain't. To do this business, you need that webpage."<sup>6</sup>

150. Ignite has five levels of Directors. If the Director enrolls four new customers of Stream within thirty days of his purchase of the Services Program, Ignite will pay him a \$100 "bonus." Alternatively, the Director can obtain credit for two electricity or gas customers by purchasing an Ignite Homesite. Ignite also encourages the Director to be his own customer, *i.e.*, switch to Stream as his gas or electric provider, or both. Thus, to earn the first \$100 bonus, the Director needs only one retail customer and himself, so long as he purchases the Ignite Homesite.

151. Then, if the Director enrolls six additional customers, for a total of ten, within sixty days of his purchase of the Services Program, Ignite will pay him a second \$100 "bonus."

152. If the Director sells the Services Program to a new recruit and that recruit enrolls four customers in his first thirty days, Ignite will pay a third \$100 "bonus." If the Director sells the Services Program to two additional recruits and those recruits each enroll four customers in their first thirty days, Ignite will pay that Director two more \$100

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<sup>6</sup> <http://www.youtube.com/watch?v=4LRijOmy3tM> (last viewed on Oct. 13, 2009).

“bonuses.” Ignite calls this completing the “3 and 10,” three new recruits that purchased the Services Program and ten new customers (or seven if the Director purchased the Ignite Homesite and enrolls himself as a customer of Stream Energy). Upon completion of the “3 and 10,” Ignite has, in total, paid the Director \$500 in “Immediate Income.” Ignite states that by “complet[ing] your 3 and 10 [you] set in motion a cycle of duplication that will fuel the growth of your Ignite business.” By completing the “3 and 10,” a Director becomes a “Qualified Director,” the second level from the bottom of the pyramid.

153. The third level from the bottom of the pyramid is the “Managing Director.” To become a Managing Director, a Director must have twelve Directors in his “downline,” *i.e.*, individuals that joined the pyramid under him. Ignite pays each Managing Director \$175 for each Director he personally sponsors. Ignite also pays each Managing Director an additional \$75 for each Director below his first downline level, provided each Director enrolls at least one customer within that Director’s first thirty days.

154. The fourth level from the bottom of the pyramid is the “Senior Director.” To become a Senior Director, a Managing Director must enroll five new individuals as customers of Stream, sponsor three additional Directors and have two Managing Directors in his downline network. Ignite pays each Senior Director \$275.00 for each Director he personally sponsors. Ignite also pays each Senior Director an additional \$175.00 for each Director in his downline network.

155. The fifth level from the bottom of the pyramid is the “Executive Director.” To become an Executive Director, a Senior Director must enroll five new individuals as customers of Stream and have two Senior Directors in his downline network. Ignite pays each Executive Director \$325 for each new Director he personally sponsors. Ignite also

pays each Executive Director an additional \$225.00 for each Director in his downline network.

156. The sixth level from the bottom of the pyramid is the “Presidential Director.” Ignite does not disclose what it takes to be a Presidential Director or the compensation that a Presidential Director receives.

157. The defendants represent that from the Managing Director level up, “leadership income [is] paid on every [Director] on every level to unlimited depth. That’s geometric growth to infinity.”

#### **4.2 The Services Program is an illegal pyramid scheme.**

158. Each defendant promotes Stream, Ignite and his or her pyramid scheme. The defendants induce new recruits to purchase the Services Program through materially false representations about Ignite’s pyramid system. Generally, the defendants falsely represent the pyramid’s operations and the potential compensation a purchaser of the Services Program can receive. Any statement made by the defendants to others that supports the pyramid scheme is by its very nature made in furtherance of a scheme and artifice to defraud individuals that purchase the Services Program.

159. The first reason that the defendants’ business is a pyramid scheme is because Ignite pays a Qualified Director a bonus of between \$75 and \$325 each time he or his downline sells the Services Program to a recruit who becomes a Qualified Director. This headhunting fee meets “the second element of the *Kosco* test . . . [and] is

the *sine qua non* of a pyramid scheme.”<sup>7</sup> In sum, Ignite, is a textbook example of a pyramid scheme.

160. The second reason that the defendants’ business is a pyramid scheme is because Stream pays its Directors income from non-retail sales, *i.e.*, sales to individuals who are themselves Directors. To avoid being a pyramid scheme, the compensation a participant in a multilevel marketing program receives must be a “payment based on actually consummated sales of goods or services to persons ***who are not participants in the plan.***”<sup>8</sup> Here, as much as one-third of the compensation a Director receives comes from energy sales to other Directors. In fact, it is possible for a Director to earn all of their income from energy sales from only Directors.

161. Pyramid schemes are inherently illegal. In a pyramid scheme, the perpetrators typically induce others to join the by promising large profits and rewards from an alleged business. All pyramid schemes must eventually collapse.<sup>9</sup>

162. Pyramid schemes are “[s]uch contrivances ... characterized by the payment by participants of money to the company in return for which they receive (1) the right to sell a product and (2) the right to receive in return for recruiting other participants into the program rewards which are unrelated to sale of the product to ultimate users.”<sup>10</sup>

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<sup>7</sup> *Webster v. Omnitrition Int’l. Inc.*, 79 F.3d 776, 782 (9th Cir. 1996), citing *In re Koscot Interplanetary, Inc.*, 86 F.T.C. 1106, 1181 (1975), *aff’d mem. sub nom.*, *Turner v. F.T.C.*, 580 F.2d 701 (D.C. Cir. 1978) (emphasis supplied).

<sup>8</sup> *In re Koscot* 86 F.T.C. at n.9.

<sup>9</sup> *Webster*, 79 F.3d at 781 (citing *S.E.C. v. Int’l. Loan Network, Inc.*, 968 F.2d 1304, 1309 (D.C. Cir. 1992)).

<sup>10</sup> *Webster*, 79 F.3d at 781.



163. “As is apparent, the presence of this second element, recruitment with rewards unrelated to product sales, is nothing more than an elaborate chain letter device in which individuals who pay a valuable consideration with the expectation of recouping it to some degree via recruitment are bound to be disappointed.”<sup>11</sup> Federal courts have expressly recognized that “the operation of a pyramid scheme constitutes fraud for purposes of several federal antifraud statutes.”<sup>12</sup> “Like chain letters, pyramid schemes may make money for those at the top of the chain or pyramid, but ‘must end up disappointing those at the bottom who can find no recruits.’”<sup>13</sup> Accordingly, “[p]yramid schemes are said to be inherently fraudulent ....”<sup>14</sup>

164. The Federal Trade Commission has found pyramid schemes to entail “operating an unfair and deceptive multilevel marketing plan under which persons were lured into purchasing distributorships by the promise of large financial rewards, when in fact such rewards depended on a ‘virtually, endless recruiting of participants into the scheme’ and were ‘necessarily predicated on the exploitation of others who [had] virtually no chance of receiving a return on their investment.’”<sup>15</sup>

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<sup>11</sup> *Id.* at 782.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 781 (quoting *In re Koscot*, *supra*, 86 F.T.C. at 1181).

<sup>14</sup> *Id.* As the Fifth Circuit explained in *Piambino v. Bailey*, 610 F.2d 1306, 1318 n. 9 (5th Cir. 1980):

if the founder recruited five distributors in the first month and if those five each recruited five more distributors in month two, and if each of these subsequent recruits enticed five people to join in the month following his own recruitment, over 244 million new distributors would be recruited in the twelfth month. Obviously, this would be impossible in a nation of only 220 million people.

<sup>15</sup> *Piambino v. Bailey*, 757 F.2d 1112, 1125 (11th Cir. 1985).

**5. MOST PERSONS DRAWN INTO THE IGNITE PYRAMID HAVE LOST OR WILL LOSE THEIR MONEY.**

**5.1 The pyramid offers promises of great wealth to those who buy the Services Program.**

165. The Stream, Ignite, the Operators and Executive and Presidential Directors arrange and pay for a variety of meetings, called, among other things, “Power Surge,” “Ignite Opportunity” and “Ignite Academy” (“Ignite Events”). The Presidential and Executive Directors, together with others, give well-scripted presentations at these Ignite Events that encourage others to purchase the Services Program, or, for those already who had already purchased the Services Program, to recruit others to purchase the Services Program.

166. Stream and Ignite accompany each speaker with music tailored to his or her speech. Perhaps the best explanation of an Ignite Event comes from a *D Magazine* article that described a Power Surge meeting as follows:

THEY HAVE BROUGHT THEIR CHILDREN and their dreams, 2,000 people, give or take, to a ballroom of Houston’s Westin Galleria hotel, on this Saturday afternoon in November.... The people have come for Power Surge, a tent revival-style sales meeting for a Dallas-based power concern called Stream Energy. The people work for Ignite, the multilevel marketing arm of Stream. They recruit customers for Stream—and more salespeople for Ignite.

\* \* \*

Lightning bolts shoot across two enormous video screens displaying the slogan “Get paid when you turn on the lights. ”The Black Eyed Peas’ “Let’s Get It Started ”thunders over the sound system. The crowd sends up a cheer. Then a man named Presley Swagerty leaps onstage, and the room comes to its feet, save for three small children in back, all kneeling in front of their chairs, concentrating on coloring books. Swagerty is a voluble former high school basketball coach who took his Garland Lakeview Centennial team to the playoffs three times during his four-year tenure. He is now Ignite’s highest earner. Swagerty personally has only recruited 18 IAs [Directors], but those 18 have served him well, recruiting more IAs who recruited yet more IAs, until Swagerty wound up with more

than 10,000 customers in his downline, each one contributing to his commission check. Swagerty is a celebrity in Ignite circles, posing for photographs with other IAs, sometimes while holding a door-size replica of one of those monthly commission checks. At Power Surge, he had one for \$20,455.50.

167. Swagerty is known within the Ignite pyramid as “the Coach,” just as he was known in Excel. At these Ignite Events, Swagerty (and other Presidential and Executive Directors) gives compelling speeches about the vast financial wealth he received through the pyramid. Oddly, these are essentially the same compelling speeches he gave about Excel.

168. One of Swagerty’s many presentations is available on the Presidential and Executive Directors’ website, [plugintoignite.com](http://plugintoignite.com). In that presentation, Swagerty tells his Ignite story. Before he joined the Ignite pyramid, he was a high school coach and he could not pay his bills. Sometimes he had unpaid bills and only \$3.22 in his checking account. Faced with this shortfall, he just put the unpaid bills in the bottom drawer of his desk and hoped to pay them next month. (Swagerty failed to mention his involvement with Excel or explain what happened to the “retirement nest egg” he earned from Excel.).<sup>16</sup>

169. Then, according to Swagerty, he purchased the Services Program and joined the pyramid. He claims that his involvement in the Ignite pyramid changed his life. His son, Jordan, was able to attend Arizona State and play baseball. (Query: hadn’t Swagerty already paid for Jordan’s college from his Excel income, since he claimed, in his time with that company, his Excel income allowed him to “finance his kids’ college

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<sup>16</sup> See ¶141.

education?”).<sup>17</sup> Now Swagerty is able to see his son play in Arizona by using the airplane he bought “just so [he] can go and watch [Jordan] play.” Swagerty consistently represents to potential purchasers of the Services Program that he went directly from being a coach to being an Ignite sales person. That representation is obviously false – he was with Excel for many years prior to joining Ignite.

170. Finally, Swagerty says his plane, if he has a plane, did not come from his hard work. He claims he has made his supposed wealth from his early purchase in the Ignite pyramid and the labor of those downline from him in the pyramid. Moreover, his sale of Stream energy to retail customers is a minor part of Swagerty’s success. As Swagerty said,

[W]e only need a handful of customers. Everybody understands this and I think this is the key point for all of us, this is not about any of us running all over creation trying to sign up hundreds and hundreds of customers. We need our little handful; we need ten to twenty in our career ....

Purchase the Ignite Services Program, and, according to Swagerty, all you need to do is “build a huge team of people that get a handful of customers and that’s what makes this whole thing go. Team, getting a bunch, getting a bunch on the team with a handful of customers.”

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<sup>17</sup> Moreover, Jordan is quite a baseball player who is attending college on a sports scholarship.

## 5.2 The Ignite pyramid is collapsing.

### 5.2.1 The Presidential and Executive Directors are getting rich at the expense of those who have recently joined the Ignite pyramid.

171. As is expected in any pyramid scheme, those at the very top make progressively more and more money while those at the bottom make less and less. This data is taken from Ignite's "Income Disclosure" for years 2006, 2008, 2009 and 2010.<sup>18</sup>

172. Between June 1, 2006 to December 31, 2010, Ignite reported in its "Income Disclosure[s]" that it paid its **highest** paid Executive Director the following:

<i>Year</i>	<i>Highest Executive Director's Payment</i>
<b>2006</b>	\$819,089.50
<b>2008</b>	\$2,148,615.50
<b>2009</b>	\$2,231,548.50
<b>2010</b>	\$2,272,218.50

Therefore, Ignite's highest paid Executive Director's income in 2010 is 277.40% of what it was in 2006.

<sup>18</sup>

Ignite occasionally publishes an "Income Disclosure" that states the percentages of Directors at the various levels (Executive Directors, Senior Directors, Managing Directors and Qualified Directors) who have received income from Stream or Ignite. It also states the low, average and high for each level of Directors. Ignite's Income Disclosures for 2006, 2008 and 2009 cover June to June for the stated year. The plaintiffs cannot find an Income Disclosure for 2007. Ignite's income disclosure for 2010 is for January 1, 2010 to December 31, 2010.

173. Directors at lower levels, on average, experienced a decrease in revenue between June 1, 2006 to December 31, 2010.

174. Between June 1, 2006 to December 31, 2010, Ignite reported in its “Income Disclosure[s]” that it paid its **average** Executive Director the following:

<i><b>Year</b></i>	<i><b>Average Executive Director's Payment</b></i>
<b>2006</b>	\$241,913.60
<b>2008</b>	\$152,216.82
<b>2009</b>	\$133,126.50
<b>2010</b>	\$109,435.30

Therefore, Ignite’s average Executive Directors’ income in 2010 is 45.24% of what it was in 2006.

175. Between June 1, 2006 to December 31, 2010, Ignite reported in its “Income Disclosure[s]” that it paid its **average** Senior Director the following:

<i><b>Year</b></i>	<i><b>Average Senior Director's Payment</b></i>
<b>2006</b>	\$10,614.70
<b>2008</b>	\$8,716.19
<b>2009</b>	\$8,083.12
<b>2010</b>	\$7,365.53

Therefore, Ignite’s average Executive Directors’ income in 2010 is 69.39% of what it was in 2006.

176. Between June 1, 2006 to December 31, 2010, Ignite reported in its “Income Disclosure[s]” that it paid its **average** Managing Director the following:

<b>Year</b>	<b><i>Average Managing Director's Payment</i></b>
<b>2006</b>	\$1,723.00
<b>2008</b>	\$1,578.77
<b>2009</b>	\$1,458.75
<b>2010</b>	\$1,453.95

Therefore, Ignite’s average Managing Directors’ income in 2010 is 84.38% of what it was in 2006.

177. Between June 1, 2006 to December 31, 2010, Ignite reported in its “Income Disclosure[s]” that it paid its **average** Director the following:

<b>Year</b>	<b><i>Average Director's Payment</i></b>
<b>2006</b>	\$460.31
<b>2008</b>	\$174.06
<b>2009</b>	\$129.33
<b>2010</b>	\$155.91

Therefore, Ignite’s average Directors’ income in 2010 is 33.87% of what it was in 2006.

#### **5.2.2 Stream’s income from retail sales, i.e., sales to individuals who are not also Directors, is decreasing.**

178. As the pyramid has expanded, a growing percent of Stream’s customers were also Directors, and, conversely, the percent of retail sales of Stream energy fell. This growth in sales to Directors is further indication that Ignite’s pyramid scheme is

collapsing. In December of 2005, the *Dallas Morning News* reported that Ignite had 20,000 Directors and Stream had 130,000 customers. Most Ignite Directors are also Stream customers. Thus, in 2005, approximately 15.38% of Stream's customers were also Ignite Directors.

179. By March of 2006, *D Magazine* reported that Ignite had 25,000 Directors and Stream had 150,000 customers. Therefore, within three months, the percent of Stream customers that were also Ignite Directors grew to 16.67%.<sup>19</sup>

180. By 2008, Ignite had 110,000 Directors and Stream had 330,000 customers, meaning that 33.33% of Stream's customers were also Ignite Directors. Ignite has failed to publish sufficient information to know what percent of Stream's customers are also Ignite Directors in 2009.

181. From June of 2005 to June of 2008, the number of Stream customers rose from 130,000 to 330,000, an increase of 220%. During that same time, the number of Ignite Directors rose from 20,000 to 110,000, an increase of 440%.

### **5.2.3 Similar to Excel, Ignite is profiting from the pyramid scheme.**

182. Taking the best data disclosed by Ignite, in 2008 it had 110,000 directors. During about that same time, June of 2007 to June of 2008, 25.29% (or 27,819 Directors) did not earn any money from their purchase of the Services Program. These 27,819 Directors paid \$9,152,451.00 to purchase the Services program and got nothing.

183. Of the remaining 82,181 Directors, 87.99% (72,331) were Qualified Directors and received an average of \$174.06. Therefore, these 72,331 Qualified

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<sup>19</sup> Stream, Ignite, the Operators, and the Presidential and Executive Directors have expressly adopted the *D Magazine* article. Ignite and Stream tout it in their literature and the Presidential and Executive Directors tout it on their websites, including PlugIntoIgnite.com.



Directors paid \$23,796,899 for the Services Program and, in return, received \$12,589,993.86.

184. In 2008, Ignite earned \$20,359,416.14 from Directors that received nothing and Qualified Directors that, on average, received \$174.06. However, that is not all Ignite earned. Each of these Directors likely purchased an Ignite Homesite for \$24.95. Of the 100,150 Directors (who received nothing) and the Qualified Directors (who received on average \$174.06), that is \$2,498,742.50 in revenue to Ignite from Ignite Homesites each month. Assuming that each Director and Qualified Director keeps his Ignite Homesite for six months, that is \$14,992,455.00.

185. The estimated net revenue to Ignite for Qualified Directors and below, in 2008, assuming each person used an Ignite's Homesite for six months, is \$35,351,871.14.

### **5.3 The defendants knew the Ignite pyramid would collapse.**

186. Chris Domhoff, a founder of Stream and Ignite, recognized that the Ignite pyramid is viable only so long as Stream grows. As he was quoted in *D Magazine*, "Yes, there will be a saturation point over a two-year period," he said. "By that point, we hope to launch in other states." Domhoff, Stream, Ignite and the Operators knew that the pyramid would fail. These defendants never tell their potential recruits that the pyramid will collapse.

187. The *Dallas Morning News* observed in December of 2005:

The people at the top of the pyramid are going to be the biggest winners, and the people at the bottom are going to be the biggest losers. And eventually the scheme is going to run out,' said Dan Howard, chairman of the marketing department at Southern Methodist University.

If each of Stream's 20,000 sales agents signs three agents (the number that triggers bonus payments), and those agents sign three more, within six rounds every resident of Texas would be a sales agent.

188. The Ignite pyramid's expansion to Georgia will doom Georgians that purchase the Services Program to the same fate. Indeed, the Texas Presidential and Executive Directors have already solidified their place at the top of the pyramid in Georgia.

**6. THE DEFENDANTS' SCHEME AND ARTIFICE TO DEFRAUD INCLUDES MANY ACTS OF WIRE AND MAIL FRAUD.**

**6.1 Overview.**

189. The plaintiffs (see § 7, below), describes the following factual allegations: (a) the defendants have engaged in a pattern of racketeering activity, here wire and mail fraud and (b) the defendants have engaged in interstate commerce. These sections will describe the defendants' acts in support of the Ignite pyramid. These include in person presentations, websites, phone calls and internet presentations, all of which were done in support of the defendants' scheme and artifice to defraud.

**6.2 IgniteInc.com.**

**6.2.1 "Opportunity."**

190. Ignite and Stream operate IgniteInc.com, a website hosted in Dallas, Texas that encourages individuals to purchase the Services Program.<sup>20</sup> The website contains a number of video presentations.

191. The first of these Flash videos is entitled "Opportunity" and presented by a paid announcer. In the presentation, she says that Ignite is "what we believe is the

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<sup>20</sup> See <http://www.ip-adress.com/whois/www.igniteinc.com> (last visited Sep. 23, 2009) (showing that Igniteinc.com is hosted in Dallas, Texas).

greatest financial opportunity in America today.” She also presents the Services Program as a “ground floor opportunity and a company with a proven record of performance.”

192. Opportunity concludes by inviting the viewer to “become an associate and start your Ignite business for a onetime fee of \$329.” It also invites the viewers to set up their own Ignite Homesite for \$24.95 a month so that they can easily recruit others to purchase the Services Program.

#### **6.2.2 “Compensation Plan.”**

193. The same paid announcer presents the Flash video “Compensation Plan.” She explains the compensation as stated above in § 4.1.

194. The announcer explains that a Director will receive “leadership income” from the Ignite pyramid for signing up new persons to purchase the Services Program. For example, she states that:

Our first leadership position is called managing director. As a managing director you earn \$100 in immediate income just like before but now you earn an additional \$75 for a total of \$175 for each [director] you personally sponsor. Furthermore, this additional \$75 is paid on each [director] below your first level in your managing director organization when he or she enrolls only two customers within his or her first thirty days.

195. She then explains “Leadership income is serious income potential you can earn while you are building your residual income” “The power of Ignite’s leadership income plan is that these bonuses are paid on every associate on every level to unlimited depth. That’s geometric growth to infinity.”<sup>21</sup> She also shows a picture of what “infinity” looks like:

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<sup>21</sup> This is patterned on Excel’s “Promote and Earn” PowerPoint slide. See ¶139.



196. Finally, she explains the residual income component where a Director is paid between 50¢ and \$1 each month for each customer in his downline. As she states:

Once you get Directors, and just 10 customers, you're getting paid on 130 customers every month. As you continue to duplicate your 3 and 10 you have 27 associates and 270 customers on your third level, 81 associates and 810 customers on your fourth level and 243 associates and 2,430 customers on your fifth level.

### **6.2.3 "Success Profiles."**

197. IgniteInc.com contains "Success Profiles" for Presley and Jeanie Swagerty (Presidential Directors), Steve and Diane Fisher (Presidential Directors) and Brian and Beth Lucia (Presidential Directors). Each Flash Video presentation stresses the success and wealth that these individuals have obtained through purchase of the Services Program and participation in the Ignite pyramid.

198. Swagerty says this on his and his wife's success profile:

I got involved with Ignite about a year and a half ago and it has been totally life changing. Never dreamed in such a short period of time it would hit six figures, I'm talking monthly not yearly. When you can make an annual salary on a monthly basis it's been amazing in that regard. Never dreamed that would happen, at least not this soon.

Swagerty continues:

It almost still seems like a dream, you know to pull up to the house. We sit on five acres, it's about 5,000 square feet. We've got four bedrooms, six bathrooms, a game room, a media room, we love the pool area. You know I've always wanted to have a little space and it's kind of neat moving out here like this. My daughter got to go to Baylor because of this business. As a coach, I couldn't have afforded to send her to Baylor. But she is at Baylor, my son in private school. Again, my mom in an assisted living place instead of a nursing home and you know it's because of this. You know my daughter's in the business, my son can't wait for his next birthday because he will be in the business and you know, it's one of those deals where it's a family deal.

Swagerty never mentions, here or in any other Ignite presentation that he was with Excel, and not a coach, prior to joining Ignite. To do so would destroy his credibility.

199. Brian Lucia said this on his and his wife's success profile: "When my best friend approached me with the Ignite opportunity it was a week before we found out we were pregnant. In less than one year's time we replaced her income after 16 years of teaching." Lucia said this as well:

The first associate that we signed underneath us was a buddy of mine who I was in a hotel room in Omaha, Nebraska, and I said hey, I've a new business I want to you to take a look at. I write this down, had him write down my website, I said takes about 10 minutes to watch a video. He called me in 12 minutes said I'm in.

200. Lucia concludes by saying, "the way the compensation plan is set up, people get that money in their hands quickly."

### **6.3 PlugIntolgnite.com.**

#### **6.3.1 PlugIntolgnite.com was created and maintained by Trey Dyer and other Presidential and Executive Directors.**

201. In August of 2007, the Presidential and Executive Directors first created, maintained and provided content for "PlugIntolgnite.com," a website to attract new individuals to purchase the Services Program and join the Ignite pyramid.

PlugIntolgnite.com is hosted in Utah.<sup>22</sup> PlugIntolgnite.com contains an invitation for visitors to contact the Presidential and Executive Directors that run the website. This website also contains materials to assist their downline Directors to recruit new purchasers of the Services Program. PlugIntolgnite.com has been successful. As of October 9, 2009, PlugIntolgnite.com had more than 92,000 visitors. PlugIntolgnite.com may also be financially supported by Stream and Ignite.

202. Like Swagerty, all Presidential and Executive Directors in the pyramid are earning bonuses for each new recruit who signs up in their downline. Moreover, they earn commissions for all of the customers signed up in their downline. Thus, they are very motivated to work to promote and support the pyramid.

203. Under the "About Us" tab, PlugIntolgnite.com informs visitors of the following:

Plugintoignite.com was started as a simple file sharing page set up for me and a few of my friends, leaders, and team members. Over the last 3 years it has grown tremendously and is now used by much of the Ignite family. The material on the site is designed to complement, not replace, the already awesome training provided by Corporate. It is made possible by a handful of hard working [Executive Directors] and [Presidential Directors]. We hope you enjoy it and if you would like to see something added drop us an email through the Contact Us link on the home page. Enjoy!!

Follow along with me on twitter at: [http://twitter.com/Trey\\_Dyer](http://twitter.com/Trey_Dyer).

204. Trey Dyer is an Presidential Director and directly administers and maintains PlugIntolgnite.com. Dyer, together, with the Presidential and Executive Directors, jointly pays for and maintains PlugIntolgnite.com.

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<sup>22</sup> See <http://www.ip-adress.com/whois/plugintoignite.com> (last visited on Sep. 23, 2009) (showing that the host of PlugIntolgnite.com is in Orem, Utah).

205. PlugIntolgnite.com has several components, including audio recordings of presentations by Presidential and Executive Directors, Ignite and Stream.

**6.3.2 “Associate Training” on PlugIntolgnite.com.**

206. “New Associate Training” contains presentations to assist new Directors in learning how to conduct their Ignite businesses. There are four sections within these training materials.

207. *“Purchase Ignite Homesite and Enroll 2 Customers.”* This section contains one presentation by Brian Lucia, an Presidential Director, in which he instructs Directors on how to sign up customers for Stream. In the presentation, he tells Directors to inform potential customers that Stream’s price for electricity is less than all other companies in Texas. In particular, he tells Directors that most people do not know what they are paying, so in the sale, the Directors should just say that Stream “is less” and will “save them money.”

208. *“Sponsor 3 to 5 Associates.”* This section contains three presentations on how to get three to five individuals to purchase the Services Program and join the pyramid. The first presentation is by Logan Stout. Stout is a Presidential Director that Ignite touts as its number two money earner. Stout’s presentation is entitled “Recruiting with Logan Stout.” In the presentation, he emphasizes the need to recruit new persons to purchase Services Program, “which is something you have to do.” He states that his income from involvement in the pyramid is “passive income.” As Stout stated, “I have folks in my Executive Director group that have thousands of people underneath them and they don’t even work the business. They don’t even work the business.”

209. Stout also says, “the majority of my business has been built from cold market recruiting.” Indeed, the bulk of his speech is about how to use “cold market recruiting” to find new persons for the pyramid.

210. The second presentation, by Swagerty is entitled “The Coach Shares His Secrets on Recruiting.” He explains that he has made \$117,000 in a recent month, but he has only signed up twenty customers for Stream. Of the \$117,000, he states that only \$10.00 is income from his twenty customers. His income from the pyramid is almost entirely passive and his presentation, like Stout’s, emphasizes cold marketing.

211. The third presentation is by Randy Hedge, a Presidential Director, also known within the pyramid as “the Cowboy.” His presentation is entitled “Recruiting with Randy Hedge” and is an inspirational and humorous presentation on how to attract person to purchase the Services Program. Hedge also stresses that “it, ain’t getting them [to be] customers, let’s be honest.” It is getting new recruits to purchase the Services Program and join the Ignite pyramid.

212. *“Help Your 3 to 5 Associates do the Same.”* This section contains four more presentations on how to get a Director’s three to five new person to purchase the Services Program and each bring in three to five new purchasers. The first presentation is by Quincy Jones, an Executive Director, and is entitled “72 Hour Danger Zone.” He has several thousand “associates.” He emphasizes the need to use the telephone to call folks to invite them to join in the pyramid. He specifically mentions that Swagerty is on frequent conference calls to “share this business [*i.e.*, the pyramid].”

213. Jones closes by comparing his work in bringing new persons into the pyramid to Harriet Tubbsman’s work. She saved slaves; Ignite saves financial futures.



214. Fisher, Hedge and Stout also make presentations on how to expand the pyramid.

215. Fisher makes the goal clear. After gathering four customers, Directors are to recruit individuals to purchase the Services Program and join the pyramid. As Fisher says:

Once you've got your 4 [customers] in 24 [hours], I take my associates out of the customer gathering business at that point, when they've got their four customer points I say ok, you're done gathering customers for a little while, we're gonna do what's important and that is to start building this team [*i.e.*, gather new purchasers of the Services Program].

216. Fisher next stresses the need to assure that those you are attempting to recruit have \$329. He defines a qualified person as follows: "[i]f we were gonna go spend 45 minutes with them showing them the business presentation and they like what they see, you know they could write a check for \$329 or they could put it on a credit card, the money is not gonna be an issue."

217. Fisher used the telephone to contact new recruits:

The first person that I called was Coach Bob Ledbetter, anyone in here know Coach Bob Ledbetter? Great man. Coach Ledbetter was a friend of mine. We used to meet for breakfast about once a month once every other month and just get caught up with each other and I called Coach, he was the first person I called in this business. I said Coach I wanna meet you for breakfast, I said meet me at the McDonald's by my house, I wanna buy you breakfast. I was cheap.

218. Hedge's presentation follows Fisher's. Hedge notes that some folks will oppose the participating in the Services Program as it is "a pyramid." He attempts to address this concern by stating, "Hey look, has any of y'all heard that [allegation that Ignite is a pyramid scheme]? Has anyone ever, let's get something straight, I don't care if you call it an octagon, parallelogram, rectangle, they're sending me a check."

219. Hedge also proposes that selling the Services Program is God's work.

God's given you opportunity to share this I can tell you my personal story in my life, I was praying for something. I didn't know it was this. Matter of fact, when Presley came I remember saying no God I want something real I promise you you ain't got no friends or family right now setting at home praying, Dear Lord, have one of my friends bring one of them electric pyramid deals to me.

Hedge continues:

Million dollars, you know my best friend's [Swagerty] already made almost four million with this, the guy I told no, the guy I laughed at, the guy spit on my brother and Christ, the guy who was there for me in my worst of times in my life, being knowing and loving him 15 years, Presley came to me and I said no. I made, I almost made a profession out of being a jerk.

220. It is noteworthy that PlugIntolgnite.com's New Associate Training spends seven times more time instructing its Directors on how to persuade individuals to find purchasers for the Services Program than it does instructing them on how to sell Stream energy.

### **6.3.3 Conference Calls ("The Coach and Cowboy Hour") on PlugIntolgnite.com.**

221. The two individuals most responsible for PlugIntolgnite.com, other than Dyer, are Swagerty a/k/a "Coach" and Hedge a/k/a "Cowboy." The "Coach and Cowboy" conference calls are available to anyone that telephoned 646-519-5800, a New York number, and entered Access Code 5098#.<sup>23</sup> The purpose of these conference calls is to bring persons into the Ignite pyramid and to sponsor, support and assist others to do the same. The following telephone conference calls occurred on the dates stated below,

<sup>23</sup>

See <http://www.bennetyee.org/ucsd-pages/area.html> (last visited on Sep. 23, 2009) (showing that area code 646 is in New York, New York).

and each included the Coach and Cowboy (usually), as well as the stated “guest(s)” (as reported on PlugIntolgnite.com):

- a. 10-25-2009 The Coach hosts with Special Guest SD Bobby Frasier.
- b. 10-11-2009 The Cowboy and Bryan Childers (“Childers”) host with Special Guest PD, Coach Bob Ledbetter. Ledbetter tells participants that Ignite is a “ground floor opportunity.” He also assures participants that “this is not about getting customers.”
- c. 10-4-2009 The Coach and Childers host with Special Guests PDs, #3 Money Earner Steve Fisher and Sister Susan Fisher. Hedge recognized Childers as a “co-host” of the “Coach and Cowboy” conference call.
- d. 9-27-2009 The Coach and Cowboy with Special Guest Chris LaFaive (“LaFaive”). LaFaive stated he started with Ignite gathering persons in Georgia. He will be touring Texas (McAllen, Corpus Christi, San Antonio and Round Rock) in October of 2009 presenting the Ignite Opportunity. The Cowboy or Coach estimated that one-half of the persons that called in were in Georgia.
- e. 9-20-2009 The Coach and Cowboy, Childers and Myself, Trey Dyer. The Coach joined the call from Texas, the Cowboy from Arkansas and Childers joined from Georgia. The Cowboy introduces Childers as “one of the top earners out in Georgia.”
- f. 8-23-2009 Special Guests, EDs Dave Regis, Childers and Myself, Trey Dyer. The Coach joined the call from Georgia, the Cowboy joined from Arkansas and Childers joined from Georgia. The Coach stated that the beginning of the call is “kinda like a madhouse and I love it, we gotta a lotta folks wanting to get in on the Coach and Cowboy conference call. The Cowboy had trouble joining the call because “all circuits [were] busy.” Childers, from Georgia, joined the call. The purpose of this call was to recruit persons in Georgia to purchase the Services Program. The Cowboy mentions that “And that’s money we’re talking about Brian, I know you’re from southern Georgia, we’re talking about pile of money.” The Coach mentions that he soon will be going to Savannah, Georgia for six Ignite meetings. The Coach also

mentions "Greg McCord's gonna join me Tuesday and Wednesday in Atlanta.

- g. 8-16-2009 Special Guests, PD Susan Fisher and ED Ryan Morris.
- h. 8-9-2009 Special Guests, ED Terry Hatch and the Legendary Barbara Barkowski!!!
- i. 8-2-2009 Special Guests, ED Terry Hatch and Tony Perry.
- j. 7-26-2009 The Coach and Childers and Myself talk excitement and teambuilding.
- k. 7-19-2009 The Coach and Childers talk about Power Surge and success in the biz!
- l. 6-28-2009 The Coach and Cowboy talk shop!
- m. 6-7-2009 Special Guest, ED Ryan Morris was on the call with the Cowboy. Another great call!!! The first words are "Guys, welcome to the, uh, Sunday night Coach and Cowboy conference call. This is Randy Hedge. I am calling you from, uh, Sevier County. I am on the south side of De Queen Lake. Sitting out on my patio ... got the fire pit going, with the tiki torches ... Uh, it is just an absolute beautiful night here in De Queen, Arkansas." Also on the call was Ryan Morris and his mom, Martha Troy. In this call, the organizers represented the Services Program was "recession proof" and it involved "no luck." They also said that "[i]f you graph [the income], it is almost a straight upward line." They also stated that this "can and will happen" if the person "work[s] hard."
- n. 5-31-2009 Special Guest, ED Stefan Rodriguez was on the call. The first words are "Guys, welcome to the Coach and Cowboy conference call. My name is Randy Hedge, and I'm calling you from my home in De Queen, Arkansas." Also on the call was Stefan Rodriguez, who lives in Alvin, Texas. During the call, Hedge mentions that he will be in Dallas next week and Georgia the following week (for certain Ignite events).
- o. 5-3-2009 Special Guests, EDs Childers and Pete Meadows talk shop!
- p. 4-19-2009 The Coach, The Cowboy and Childers spell it out!!! On this call, the organizers state that if you join Ignite,

you will “[n]ever have to say you don’t have money anymore.”

- q. 4-5-2009 Special guests, Executive Directors, Beth and Charlie Jones. The host says beginning of the call that it sounds like “thousands of people” are on the call from Georgia.
- r. 3-22-2009 Special guests, Executive Director Scott Williams and Presidential Director Tim Rose!! Here, the organizers represent that “... every day is a Saturday ... [when you are a director] you aren’t stressing over everything financially.”
- s. 3-15-2009 Special guest, Presidential Director Terry Yancey!!
- t. 3-1-2009 The Coach, the Cowboy and Childers spell out what it takes!!
- u. 2-22-2009 The Coach, the Cowboy and Childers recap Ignition 2009.
- v. 2-15-2009 The Coach, the Cowboy and Childers. What a call! Hedge says he is in his car on his cell phone about to cross the Texas/Arkansas line. Within 3 minutes, Presley Swagerty says he is in Phoenix, Arizona. Childers says “we are more fired up than a roman candle ... here in the state of Georgia.”
- w. 2-8-2009 The call featured new ED David Trujillo and the Ignition 2009 agenda by ED Brian Lucia.
- x. 1-25-2009 The call had some technical difficulties at first but were resolved in a few minutes.
- y. 1-18-2009 The call featured EDs Dave Regis, Childers, and Ryan Morris.
- z. 1-11-2009 The call featured ED Childers and SD Jim Gurtner. Great Call!
- aa. 12-21-2008 The call featured special guests EDs Childers, Tim Rose and Randall Blackmon.
- bb. 12-14-2008 The call featured special guests EDs Childers and Kenny Isbell. Great call!!!

- cc. 11-23-2008 The Coach and Cowboy with special guests Executive Directors Martha Troy and Kenny Isbell.
- dd. 11-16-2008 The Coach and Cowboy with special guest Executive [now Presidential] Director Brian Lucia.
- ee. 10-19-2008 The Coach and Cowboy discuss the next big run for our business.
- ff. 10-12-2008 The Coach and Cowboy and myself talk about how to be successful in Ignite.
- gg. 10-5-2008 The Coach and Cowboy talk about excitement and what it takes to win!!!
- hh. 9-28-2008 The Coach hosted with guests Executive Director, Martha Troy, and myself, Trey Dyer.
- ii. 9-21-2008 The Coach and Cowboy living the life!!
- jj. 9-14-2008 Special Guest on the call were new Executive Directors, Louis and Michelle Miori.
- kk. 9-7-2008 The Coach and Cowboy tell it like it is.
- ll. 8-24-2008 Special Guest on the call was New Executive Director Ryan Morris.
- mm. 8-18-2008 EDs, Brian Lucia and Greg McCord hold court.
- nn. 8-4-2008 EDs, Brian Lucia and Greg McCord discuss success strategies.
- oo. 8-3-2008 Special Guests are EDs Tim Sparkman and Kenny Isbell.
- pp. 7-28-2008 Promotions and Tools and Rates, Oh My!!!!!!! The perfect Storm!!!
- qq. 7-20-2008 Special Guest is Director of Field Development, Darryl Smith.
- rr. 6-29-2008 Special Guest is Executive Director Debbie Smith.
- ss. 6-22-2008 Special Guests were Executive Directors, Dave Regis and Randall Blackmon.

- tt. 6-15-2008 The Coach, Presley Swagerty and Cowboy, Randy Hedge, host the call.
- uu. 6-8-2008 The Cowboy, Randy Hedge, hosts the call. Great Call!!
- vv. 6-1-2008 The Coach, Presley Swagerty and Cowboy, Randy Hedge, host the call.
- ww. 5-11-2008 The Cowboy, Randy Hedge, hosts the call with special guests, Executive [now Presidential] Directors, Terry and Shelba Yancy.
- xx. 5-4-2008 The #1 Money Earner, Presley Swagerty, hosts the call.
- yy. Corporate Conference Call on Enrolling Customers in Georgia Doug Witt, Director of Operation, Darryl Smith, Director of Field Developement [sic] and Brian Lucia, SD, head Trainer, give us the nitty gritty on customers.
- zz. 4-20-2008 Director of Operations, Doug Witt gives some insight on rates and gathering customers in Georgia.
- aaa. 4-13-2008 The Coach and Cowboy tell us how it is.
- bbb. 3-30-2008 Newest ED Richard Tuite and ED Tim Sparkman talk about their success.
- ccc. 3-16-2008 The Coach and Cowboy talk shop!
- ddd. 3-4-2008 Team Desires Greg McCord and Brian Lucia discuss the 3 month 10.6 deal and the March promotion. This is a great call, a little long at 50 minutes, but well worth it!!!!
- eee. 3-9-2008 Women of Power, EDs Susan Fisher, Desiree McKellar, and Jamie Piersol tell it like it is.
- fff. 3-2-2008 The Coach talks about how to get started on the right track!
- ggg. 2-24-2008 The Coach and Cowboy spell it out!
- hhh. 2-19-2008 Senior Director, Brian Lucia and #4 Money Earner ED Greg McCord clarify the new promotion. Here the organizers state "I would love to put \$350 on the blackjack

table in Vegas and get back \$400 every time, because that is what we are doing here.”

- iii. 2-10-2008 Guests were Senior Director, Brian Lucia and #2 Money Earner ED Logan Stout.
- jjj. 1-27-2008 Hosts were Executive Directors Tim Sparkman, Randall and Michelle Blackmon, Donny Anderson, and Corporate Trainer, Senior Director, Brian Lucia.
- kkk. 1-20-2008 Hosts were Executive Directors Debbie Smith and Trey Dyer [now Presidential Directors] and Corporate Trainer, Senior [now Presidential] Director, Brian Lucia.
- lll. 1-13-2008 Hosts were #4 Money Earner, Executive [now Presidential] Director Greg McCord and Corporate Trainer, Senior [now Presidential] Director and all around nice guy, Brian Lucia.
- mmm. 1-6-2008 Special Guests were Executive Director Mark Florez and Future ED, Brian Lucia [both now Presidential Directors].
- nnn. 12-30-2007 Special Guests were Executive Directors Tim Sparkman and Martha Troy.
- ooo. 12-16-2007 Special Guests were Executive Director Randall Blackmon and Senior Director Kenny Isabell.
- ppp. 12-9-2007 Special Guests were Executive Directors Terry Hatch and Dave Regis.
- qqq. 12-2-2007 Special Guests were All New Executive Directors from Houston, Randall Blackmon, Ted Hasson, and Bob Perkins.
- rrr. 11-25-2007 What a fun call! Guests tonight were Tim Sparkman, Debbie Smith, Susan Fisher, and Greg McCord. Excellent Call!!!!
- sss. 11-11-2007 What a fun call! Guests tonight were Kirk Newsom, Debbie Smith and myself. There were some great ideas tossed around. Great call!!!!
- ttt. 11-4-2007 What a fun call! Guests tonight were #4 Money Earner Greg McCord and myself. We had a great time role playing and talking about how we got started and what worked!!



- uuu. 10-28-2007 The call was awesome tonight! EDs Tim Sparkman, Martha Troy, and Dave Regis had a roundtable discussion on what they do that works!! Great call!!
- vvv. 10-21-2007 Special Guest is #4 Money Earner Greg McCord. Great Call!
- www. 10-14-2007 Special Guest Executive Director Dave Regis gives his insight. The computer rebooted during the first part of the call so this is a partial recording. Still excellent!!
- xxx. 10-7-2007 Presley "The Coach" Swagerty flies solo and gives some classic training.
- yyy. 9-30-2007 Special Guest Executive Director "The Kid", Tim Sparkman tells his story and discusses his successes and failures in the business.
- zzz. 9-23-2007 Special Guest is Darryl Smith, Director of Field Development. Darryl talks about the latest Ignite Academy in Houston.
- aaaa. 9-16-2007 Special Guest is ED Sally Dyer. Sally does some role playing with the Coach and Cowboy.
- bbbb. 9-9-2007 The Coach and The Cowboy talk about attitude and commitment and role play, setting up appointments. Very good call!!
- cccc. 9-2-2007 Special Guest #4 Money Earner Greg McCord.
- dddd. 8-26-2007 Special Guest Top Ten Money Earner Joel Claybrook.
- eeee. 8-19-2007 Special Guest Top Ten Money Earner Legendary Coach Bob Ledbetter.
- ffff. 8-12-2007 Special Guests are Ignites 30th Executive Directors Karen and Darrell Boeske.
- gggg. 8-5-2007 Special Guest is Ignites 29th Executive Director Bob Aulds.
- hhhh. 7-29-2007 Special Guests are Ignites 28th Executive Directors Dave and Kathy McKinney.
- iiii. 7-22-2007 Special Guest is Ignites 27th Executive Director Martha Troy.

- jjjj. 7-15-2007 Special Guest Director of Field Development (sic) Darryl Smith.
- kkkk. 7-1-2007 Special Guest Top Ten Money Earner Legendary Coach Bob Ledbetter.
- llll. 6-24-2007 Special Guest Top Ten Money Earner Tim Rose.
- mmmm. 6-17-2007 Special Guest is Ignites 26th Executive Director Quincy Jones.
- nnnn. 6-10-2007 Special Guest is Ignites 25th and Baird's 2nd Executive Director Debbie Smith.
- oooo. 5-13-2007 The Coach and the Cowboy share their vision.
- pppp. 3-25-2007 Special Guest is Executive Director Willa Gipson.
- qqqq. 3-18-2007 Special Guest is #3 Money Earner Executive Director [now Presidential Director] Steve Fisher. Fisher states "you know you are having the time of your life when your weekly check is five figures." He then states "I make more with Ignite in a week than I made in 6 months with American Airlines ... and I had to work hard during those 6 months." Finally, he states that "Financial independence is getting paid on the efforts of others, whether you show up to work or not."
- rrrr. 2-11-2007 Special Guest is Executive Director Domenic Carlucci.
- ssss. 1-28-2007 Special Guest is Ignites Top Female Money Earner Executive [now Presidential] Director Susan Fisher.
- tttt. 1-21-2007 Special Guest is Top Ten Money Earner Mark Flores.

222. In total, there have been at least ninety-eight "Coach and Cowboy" conference calls to date promoting the Stream/Ignite pyramid. Each organizer and invited listener in these conference calls used the "wire," *i.e.*, interstate communications technology such as telephones. On each call, Torres and Robison allege that there was at least one organizer and at least one invited listener since the organizer would have terminated the call if no invited listeners attended.

223. In addition, the Presidential and Executive Directors have made each of these ninety-eight conference call recordings promoting the pyramid available on PlugIntolgnite.com. Torres and Robison alleges that at least three persons, other than the sponsors of these recordings have used the “wire,” *i.e.*, the internet, to listen to the conference call on the basis that there have been over 92,000 visitors to PlugIntolgnite.com.

224. To summarize, each of these Executive Directors has participated in one or more of the “Coach and Cowboy” conference calls: Bob Aulds, Barbara Barkowski, Randall and Michelle Blackmon, Karen and Darrell Boeske, Domenic Carlucci, Brian Childers, Joel Claybrook, Sally Dyer, Willa Gipson, Ted Hasson, Terry Hatch, Kenny Isbell, Beth and Charlie Jones, Quincy Jones, Chris LaFaive, Brian Lucia, Greg McCord, Desiree McKellar, Dave and Kathy McKinney, Kirk Newsom, Pete Meadows, Louis and Michelle Miori, Ryan Morris, Bob Perkins, Tony Perry, Jamie Piersol, Dave Regis, Stefan Rodriguez, Debbie Smith, Tim Sparkman a/k/a “The Kid,” Martha Troy, Richard Truite, David Trujillo and Scott Williams.

225. In addition to the persons listed above, Presidential Directors Donny Anderson, Steve Fisher, Susan Fisher, Mark Florez, Robert L. Ledbetter, Tim Rose, Logan Stout, and Terry Yancey participated in the “Coach and Cowboy” presentations promoting the pyramid.

226. Ignite and Stream also directly participated in the referenced “Coach and Cowboy” presentations. Specifically, between April 20 and May 5, 2008, defendant Doug Witt, Director of Operations, and Darryl Smith, Director of Field Development, spoke on “Enrolling Customers in Georgia.” On July 20, 2008, September 23, 2007 and

July 15, 2007, Darryl Smith, Director of Field Development, spoke in support of the pyramid. Brian Lucia, an Executive [now Presidential] Director in the pyramid, is also employed by Ignite and Stream as a "Corporate Trainer."

227. The "Coach and Cowboy" hour, promoting the pyramid, continues to occur every Sunday night at 9:00 p.m. However, they have not been recorded and stored on PlugIntolgnite.com since March 6, 2011.

#### **6.3.4 "Ignite Academy Clips" on PlugIgnite.com.**

228. Ignite sponsors the "Ignite Academy," which consists of large meetings where it seeks new persons to purchase the Services Program and trains Directors to do the same. The Presidential and Executive Directors have made each of these presentations available to visitors at PlugIntolgnite.com.

229. At the Ignite Academy in Atlanta, Georgia, April 12, 2008, the following Presidential or Executive Directors made these presentations:

- a. Randy Hedge (a/k/a, "The Cowboy") presented the "Business Building Action."
- b. Randy Blackmon presented the "72 Hour Danger Zone."
- c. Steve Fisher presented "Steve Fisher on Belief."

230. At the Ignite Academy in Atlanta, Georgia, April 26, 2008:

- a. Trey Dyer presented the "72 Hour Danger Zone."
- b. Steve Fisher presented the "Business Building Action Plan."
- c. Susan Fisher presented "Recruiting with Susan Fisher."
- d. Brian Lucia presented "Gathering Customers" and "Customer Guidelines."

231. At the Ignite Academy in Houston, Texas, December 8, 2007, the following Presidential or Executive Directors made these presentations:

- a. Brian Lucia presented "Goalsetting."
- b. Susan Fisher presented "72 Hour Danger Zone."
- c. Presley Swagerty presented "Business Building Action Plan with Presley Swagerty."
- d. Susan Fisher presented "Recruiting with Susan Fisher."
- e. Presley Swagerty presented "Presley Swagerty on Belief."

232. At the Ignite Academy in Arlington, Texas, September 29th, 2007:

- a. Quincy Jones presented the "72 Hour Danger Zone."
- b. Steve Fisher presented the "Business Building Action Plan."
- c. Presley Swagerty presented "Recruiting with Presley Swagerty."
- d. Greg McCord (a/k/a the "Space Monkey") presented "Power Center."
- e. Domenic Carlucci presented "Team Building."

233. At the Ignite Academy in Houston, Texas, September 22, 2007, the following Presidential or Executive Directors made these presentations:

- a. Wendell Campbell presented "72 Hour Danger Zone."
- b. Debbie Smith presented "Recruiting with Debbie Smith."
- c. Randy Hedge presented "Business Building with Randy Hedge."
- d. Brian Lucia presented "Gathering Customers" and "Customer Basics."
- e. Chris Domhoff, Ignite CEO, a/k/a "Our Leader," presented his vision and celebrated the new Executive Directors.
- f. Wendell Campbell presented "Team Building with Wendell Campbell."
- g. Darryl Smith, Ignite's Director of Field Development and "Our Corporate liaison" talked about "where we've been and where we are going."
- h. Brian Lucia presented "Communication Skills Part 1" and "Communication Skills Part 2."

- i. Randy Hedge presented “Wrapping it all up.”

234. At the Ignite Academy in Abilene, Texas, August 25, 2007, the Presidential Directors made these presentations:

- a. Randy Hedge presented “Recruiting with Randy Hedge” and “Follow the Plan with Randy Hedge.”
- b. Coach Bob Ledbetter presented “Coach Bob Ledbetter on Belief.”
- c. Sally Dyer presented “72 Hour Danger Zone.”
- d. Brian Lucia presented “Communication with Brian Lucia” and “CUSTOMERS!!”
- e. Kirk Newsom presented “Power Center with Kirk Newsom.”

**6.3.5 “Presentation Tools” on PlugIntolgnite.com.**

235. PlugIntolgnite.com contains, under “Presentation Tools,” the following information provided by Ignite and Stream Energy:

- a. the “Ignite Opportunity Flash Presentation,” an official corporate flash presentation;
- b. the “Ignite Quick Start Training Presentations,” an official corporate PowerPoint presentation that instructs new persons on how to “[e]nroll on your sponsor’s Ignite Homesite,” “[s]et up your personal Ignite Homesite,” “[w]atch the Ignite Opportunity Video” and “qualify” potential pthers by, among other things, assuring that they have \$329.00;
- c. the “Ignite Compensation Worksheet,” an official corporate Adobe file that can be used to explain the pyramid’s compensation plan;
- d. the “Power Plan Workbook,” the “Ignite Bible!!!,” an official corporate Adobe file to “teach these simple steps everyday and you’ll build a huge, duplicating “Money Machine!!!”
- e. the “8 X 10 Flip Chart,” an official corporate presentation that summarizes the “Ignite Opportunity Flash Presentation”; and
- f. the “Texas Energy Screen Saver Presentation,” an official corporate PowerPoint presentation that is to be “used before a meeting.”

236. PlugIntolgnite.com also displays Ignite's and Stream's logos, materials and trade dress to such a degree that it would be impossible for any casual or prudent observer to distinguish Ignite and Stream from PlugIntolgnite.com.

237. The Presidential and Executive Directors have made each of these documents available on PlugIntolgnite.com. Torres and Robison allege that at least three persons, other than the Presidential and Executive Directors, have used the "wire," *i.e.*, the internet, to access these documents on the basis that there have been over 93,000 visitors to PlugIntolgnite.com.

238. To summarize, each of the Presidential and Executive Directors has participated in one or more of the presentations that is available to visitors via the internet.

#### **6.4 Ignite Events in Georgia and Texas.**

##### **6.4.1 Georgia Meetings.**

239. The Presidential and Executive Directors have also held meetings in Georgia to gather new Directors. At each of the Ignite Events, the Presidential and Executive Directors listed below sought and pursued others to purchase the Services Program:

- a. On October 15, 2009, Fisher attended an Ignite meeting in Acworth, Georgia.
- b. On October 14, 2009, Fisher attended an Ignite meeting in Peachtree City, Georgia.
- c. On October 13, 2009, Swagerty attended an Ignite meeting in Atlanta, Georgia.
- d. On October 12, 2009, Fisher attended an Ignite meeting in Alpharetta, Georgia.

- e. On October 8, 2009, Swagerty attended an Ignite meeting in Atlanta, Georgia.
- f. On October 7, 2009, Childers and Swagerty attended an Ignite meeting in Peachtree City, Georgia.
- g. On October 6, 2009, Swagerty attended an Ignite meeting in Atlanta, Georgia.
- h. On October 5, 2009, Rebecca Bigbie and Swagerty attended an Ignite meeting in Alpharetta, Georgia.
- i. On September 23, 2009, Childers and Swagerty attended an Ignite meeting in Peachtree City, Georgia.
- j. On September 14, 2009, Rebecca Bigbie and Fisher attended an Ignite meeting in Alpharetta, Georgia.
- k. On August 20, 2009, Lucia attended an Ignite meeting in Atlanta Georgia.
- l. On August 20, 2009, Fisher attended an Ignite meeting in Kennesaw, Georgia.

#### **6.4.2 Texas Meetings.**

240. The Presidential and Executive Directors have also held meetings in Texas to gather new Directors. At each of the Ignite Events, the Presidential and Executive Directors listed below sought to pursue others to purchase the Services Program:

- a. Anderson attended an Ignite meeting in Dallas, Texas on October 31, 2009.
- b. Swagerty attended an Ignite meeting in Houston, Texas on October 29, 2009.
- c. On October 28, 2009, Fisher attended an Ignite meeting in North Dallas, Texas.
- d. On October 28, 2009, Swagerty attended two Ignite meetings in Houston, Texas.
- e. On October 27, 2009, Fisher attended an Ignite meeting in McAllen, Texas.



- f. On October 27, 2009, Swagerty attended an Ignite meeting in League City, Texas.
- g. On October 27, 2009, Swagerty attended an Ignite meeting in Houston, Texas.
- h. On October 26, 2009, Fisher attended an Ignite meeting in San Antonio, Texas.
- i. On October 26, 2009, Swagerty attended an Ignite meeting in Pearland, Texas.
- j. On October 24, 2009, Anderson attended an Ignite meeting in Dallas, Texas.
- k. On October 22, 2009, Swagerty attended an Ignite meeting in Waco, Texas.
- l. On October 22, 2009, Ray and Rebecca Bickerstaff attended an Ignite meeting in Waco, Texas.
- m. On October 21, 2009, Swagerty attended an Ignite meeting in North Dallas, Texas.
- n. On October 21, 2009, Anderson attended an Ignite meeting in Houston, Texas.
- o. On October 21, 2009, Fisher attended two Ignite meetings in Houston, Texas.
- p. On October 20, 2009, Fisher attended an Ignite meeting in Houston, Texas.
- q. On October 20, 2009, Swagerty attended an Ignite meeting in Plano, Texas.
- r. On October 20, 2009, Swagerty attended an Ignite meeting in Dallas, Texas.
- s. On October 19, 2009, Swagerty attended an Ignite meeting in Richardson, Texas.
- t. On October 19, 2009, Anderson and Fisher attended an Ignite meeting in Houston, Texas.
- u. On October 17, 2009, Anderson attended an Ignite meeting in Dallas, Texas.

- v. On October 15, 2009, Rose Energy Group, Inc. attended an Ignite meeting in Denton, Texas.
- w. On October 15, 2009, Anderson attended an Ignite meeting in Laredo, Texas.
- x. On October 8, 2009, D. Regis Marketing Inc. attended an Ignite meeting in Euless, Texas.
- y. On October 8, 2009, Ray and Rebecca Bickerstaff attended an Ignite meeting in Waco, Texas.
- z. On October 8, 2009, Fisher attended an Ignite meeting in Houston, Texas.
- aa. On October 7, 2009, Fisher attended two Ignite meetings in Houston, Texas.
- bb. On October 5, 2009, Hatch & Associates attended an Ignite meeting in Denton, Texas.

#### **6.5 TeamExtremeTraining.com.**

241. Trey Dyer administers TeamExtremeTraining.com that is hosted in Utah.<sup>24</sup>

Stream, Ignite and the Presidential and Executive Directors maintain, finance and provide content for TeamExtremeTraining.com. The site refers visitors to PlugIntolgnite.com:

Need training?

PlugIntolgnite.com

If you want the most comprehensive training out there (outside of the Power Center) then visit PlugIntolgnite.com. There you will find tips from the top money earners along with helpful files and documents to help get your business in high gear!

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See <http://www.ip-adress.com/whois/www.teamextremetraining.com> (last visited on Jul. 8, 2011) (showing that the host of TreamExtremeTraining.com is in Provo, Utah).

242. TeamExtremeTraining.com sponsors the “Coach and Cowboy” conference calls. TeamExtremeTraining.com invites the public to these conference calls by dialing 646-519-5800, a New York number, and entering Access Code 5098#.

243. TeamExtremeTraining.com also sponsors a Monday night conference call entitled “Team Extreme/Desire Conference.” The “Team Extreme/Desire Conference” conference calls were available to anyone that telephoned 646-519-5800, a New York number, and entered Access Code 5098#.<sup>25</sup> The invitations state, “Join #4 Money Earner Greg McCord, Corporate Trainer Executive Director Brian Lucia, and myself [Trey Dyer] for a conference call each Monday night designed to give you vital information for the success of your business.” Conference calls occurred on the following Monday evenings: November (2008) 24; December (2008) 1, 8, 15, 22 and 29; January (2009) 5, 12, 19 and 26; February (2009) 2, 9, 16 and 23; March (2009) 2, 9, 16, 23 and 30; April (2009) 6, 13, 20 and 27; May (2009) 4, 11, 18 and 25; and June (2009) 1, 8 and 15.

244. TeamExtremeTraining.com, Dryer, McCord or Lucia participated as an organizer or participant in one or more of these conference calls. In total, there have been thirty-one Team Extreme/Desire Conference calls to date. Each organizer and the invited listener in these conference calls used the “wire,” *i.e.*, a telephone. On each call, Torres and Robison allege that there was at least one organizer and at least one invited listener since the organizer would have terminated the call if no invited visitors attended.

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<sup>25</sup> See <http://www.bennetyee.org/ucsd-pages/area.html> (last visited on Sep. 23, 2009) (showing that area code 646 is in New York, New York).

245. TeamExtremeTraining.com also sponsors a webinar conference call and web presentation entitled “Mission to Ignition Webinar.” TeamExtremeTraining.com, through its website and through other methods, invites the public to join this “GoToMeeting” at [gotomeeting.com/register/521712548](http://gotomeeting.com/register/521712548).

246. These Mission to Ignition Webinar conference calls and web presentations occurred on the following Sundays: February (2009) 10, 17 and 24; March (2009) 3, 10, 17, 24 and 31; April (2009) 7, 14, 21 and 28; May (2009) 5, 12, 19 and 26; June (2009) 2, 9 16 and 23.

247. In total, there have been twenty Mission to Ignition Webinar conference calls to date. Each organizer and invited listener in these Webinar conference calls used the “wire,” i.e., a telephone and the internet. On each Webinar, Torres and Robison that there was at least one organizer and at least one invited listener and viewer on the conference call since if no invited visitors attended, the organizer would have terminated the call and the GoToMeeting. Specifically, a GoToMeeting program shows the organizers the number and names of the participants.

#### **6.6 TeamAssist.biz.**

248. Mike Jolly and Jerry Scribner, both “Senior Directors” from Houston, Texas administer TeamAssist.biz, which is hosted in Arizona.<sup>26</sup> Jolly and Scribner maintain, finance and provide content for TeamAssist.biz. Jolly and Scribner host their “LEARN, DO & TEACH” weekly conference calls that are recorded and available on TeamAssist.biz. The purpose of these conference calls is to bring new persons into the

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<sup>26</sup> See <http://www.ip-adress.com/whois/teamassist.biz> (last visited on Oct. 9, 2009) (showing that the host of TeamAssist.biz is in Scottsdale, Arizona).

pyramid and to sponsor, support and assist others to do the same. The following telephone conference calls occurred on the dates stated below, and each included Jolly and Scribner:

- a. September 21, 2009 Senior Directors Jolley and Scribner.
- b. September 14, 2009 Senior Directors Jolley and Scribner are joined by Executive Director Wendell Campbell.
- c. September 7, 2009 Senior Directors Jolley and Scribner are joined by Executive Director Wendell Campbell.
- d. August 31, 2009 Senior Directors Jolley and Scribner. This week they focus on how to RAMP-UP your success rate by bringing in an EXPERT!
- e. August 24, 2009 Senior Directors Jolley and Scribner are joined by Executive Director Wendell Campbell.

249. TeamAssist.biz contains this advertisement for Jolly and Scribner's weekly conference calls which occur every Monday at 8:30 p.m.:



250. The September 21, 2009 conference call invited listeners to attend several speeches that Swagerty was giving in Houston that week. Either Jolly or Scribner expressly stated that he was not focused on getting energy customers for Stream, but rather only focused on getting directors into the pyramid.

251. TeamAssist.biz is expressly endorsed by Ignite and contains this Ignite logo:



TeamAssist.biz also links to PlugIntolignite.com.

#### **6.7 TeamInferno.com.**

252. Rose administers TeamInferno.com, which is hosted in Arizona.<sup>27</sup> The purpose of this website is to bring new persons into the pyramid and to sponsor, support and assist others to do the same. The website contains links to IgniteInc.com where visitors can find an Ignite Opportunity meeting in Texas or Georgia. It also contains links to PlugIntolignite.com and TeamAssist.biz.

253. TeamInferno.com invites visitors to attend TeamAssist.biz webinar conference calls on Monday nights at 8:30 p.m. The calls are available to anyone that telephoned (402) 237-2020, a Nebraska number, and enters Access Code 264255#.<sup>28</sup> A visitor can join the webinar at <https://www.callinfo.com/prt?ac=2179986&an=8667401260&host=readytalk>.<sup>29</sup>

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<sup>27</sup> See <http://www.ip-adress.com/whois/teaminferno.com> (last visited on Jul. 8, 2011) (showing that the host of TeamInferno.com is in Scottsdale, Arizona).

<sup>28</sup> See <http://www.bennetyee.org/ucsd-pages/area.html> (last visited on Oct. 9, 2009) (showing that area code 402 is in Omaha/Lincoln, Nebraska).

<sup>29</sup> See <http://www.ip-adress.com/whois/callinfo.com> (last visited on Oct. 9, 2009) (showing that the host of callinfo.com is in Denver, Colorado).

## **6.8 BonsEnterprises.ws.**

254. Kash Konnections administers BonsEnterprises.ws, which is hosted in California.<sup>30</sup> Kash Konnections maintains, finances and provides content for BonsEnterprises.ws. The purpose of this website is to bring new persons into the Stream/Ignite pyramid and to sponsor, support and assist others to do the same. It touts the pyramid by promising “\$8,360.00 IN RESIDUAL INCOME A MONTH FROM THE COMFORT OF YOUR HOME!” and suggests that visitors can “Become Our Next Millionaire.” BonsEnterprises.ws also contains a link to <http://www.kashkonnections.igniteinc.biz>, where visitors can purchase the Services Program.

255. BonsEnterprises.ws provides numerous video presentations that include Domhoff, Dyer and Swagerty. It also provides audio clips of presentation by Domhoff, Dyer, Fisher, Hedge, Lucia, Stout and Swagerty,

256. The site also invites visitors to attend Ignite Opportunity meetings in the following Texas cities: Abilene, Alice, Arlington, Austin, Brownwood, Clifton, Corpus Christi, Dallas, Del Rio, Denison, Denton, DeSoto, Duncanville, Eagle Pass, Euless, Farmers Branch, Fort Worth, Gainesville, Grapevine, Harlingen, Houston, Ingleside, Jacksonville, Katy - West Houston, Killeen, Laredo, McAllen, McKinney, Mesquite, Midland - Odessa, Nacogdoches, North Dallas, Oak Cliff, Palestine, Paris, Pearland, Pharr, Plano, Pleasanton, Richardson, Richland Hills, Round Rock, Rowlett, San Angelo, San Antonio, Sherman, Temple, Tyler, Uvalde, Victoria, Waco and Wichita Falls.

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<sup>30</sup> See <http://www.ip-adress.com/whois/bonsenterprises.ws> (last visited on Oct. 9, 2009) (showing that the host of BonsEnterprises.ws is in Carlsbad, California).

257. BonsEnterprises.ws also invites visitors to attend Ignite Opportunity meetings in the following Georgia cities: Athens, Atlanta, Buckhead, Brunswick, St. Simons Island, Cumming, Fairburn, Griffin, Kennesaw, Lake Lanier Islands, Lilburn, Lithonia, Locust Grove, Macon, Marietta, McDonough, Newnan, Peachtree City, Rome, Roswell, Savannah and Valdosta.

#### **6.9 IgniteOnline.Webex.com.**

258. Dyer's third internet incarnation is IgniteOnline.Webex.com. He and the other Presidential and Executive Directors have sponsored the following "Webex" meetings, each requiring a person to participate by phone and internet:

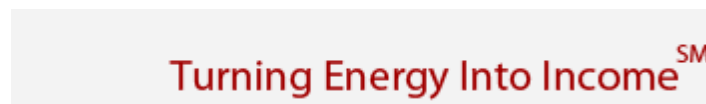
- a. May 30, 2009, "Who wants to go MD??"
- b. May 2, 2009, "TEAM EXTREME TRAINING – 2009."
- c. March 7, 2009, "30 DAYS TO MD, WHAT A BLAST!!!"
- d. February 7, 2009, "ROAD TO IGNITION 2009."

259. Dyer is not acting alone with the Presidential and Executive Directors. Ignite and Stream fully support his and the Presidential and Executive Directors' efforts.

- a. IgniteOnline.Webex.com is copyrighted as follows: "© 2009 Stream Gas & Electric, LTD. All Rights Reserved."
- b. Ignite and Stream allow Dyer and the Presidential and Executive Directors to use their logos and trademarks, specifically the following, which links directly to IgniteInc.com:



- c. The site also provides this service mark:





## **6.10 Ignite's "Turning Energy into Income."**

### **6.10.1 Contents of the "Turning Energy Into Income" box.**

260. Ignite sends all new Directors a red box of materials called "Turning Energy Into Income" (the "Red Box"), which contains the following:

- a. a welcome letter from Chris Domhoff, Founder, Ignite;
- b. "Proven Results: Ignite and Stream Energy," an explanation of Stream Energy's financial success from 2005 to the present;
- c. a packet of handouts explaining the Services Program;
- d. "The Compensation Plan";
- e. "EMPOWER," an apparent magazine priced at \$4.95 with a "Free Dual Disc" that contains various presentations explaining the Services Program (which appears in the form of a mailer);
- f. "The Power Plan Training Workbook – *The Proven Way To Start Your Ignite Business!*";
- g. "The Power Plan Training DVD";
- h. Ignite's "Policies and Procedures"; and
- i. "Independent Associate Application and Agreement."

Ignite sent Eugene Robison, a citizen of Texas, two Red Boxes by United Parcel Service ("UPS"). Upon information and belief, all individuals that have purchased the Services Program and joined the pyramid at least since January of 2009 have received the Red Boxes by UPS from Ignite.

### **6.10.2 The Workbook.**

261. The Power Plan Training Workbook (the "Workbook") provides instructions for new Directors in the business of the pyramid. The first thing the Workbook instructs a new Director to do is to become a "Qualified Director" and "get paid on your personal [Directors]." As the Workbook materials state, "[u]ntil you are qualified to get paid there

is no reason for you to do anything else in your business. Make this your #1 priority. And by-the-way, completing Phase I will also trigger your first check.”<sup>31</sup> The Workbook then explains “how to start sponsoring associates and build your team.”

262. The Workbook also requires a director to commit that they will follow the Power Plan System:

Follow the System – Achieving success in your Ignite business is very simple; follow the system provided in the Power Plan Workbook. The Power Plan will work if you work the Power Plan. Follow the system and you will have the experience of the entire Ignite leadership as your guide. Change the system and you lose those benefits. In other words, don’t try to reinvent the wheel. ***You are paid to imitate not to create.***

263. The Workbook warns that “the fastest way to slow down your growth is to change or add something to the system; so don’t do it.”

264. The Workbook also warns “don’t talk to anyone about your new business yet!” Instead, the Workbook makes clear that the newly minted Director is not to explain the program to anyone, instead he is to get potential recruits to attend meetings, called an “Ignite Opportunity”:

### **Step 8 – Setting Appointments**

Learning how to set appointments to see the Ignite Opportunity is critical to growing your business. *Your #1 objective is to set appointments with the people on your contact list so they can see the Ignite business presentation.* If you’re not getting people in front of the presentation then you’re not doing the business.

*The biggest mistake new associates make is to say too much while inviting a contact to see a presentation.* The purpose of the “invitation” is only to set an appointment to see a “presentation”; not to answer questions or explain the business. That will come during the presentation. When you mix the invitation with the presentation, we call that falling in to

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<sup>31</sup> Webster, 79 F.3d 782 (noting that “Omnitrition encouraged [Webster] to “get a supervisor as soon as possible”).

the “Valley of Death”; and it’s hard to recover once you find yourself there. So always keep the invitation separate from the presentation. By focusing on setting an appointment and avoiding distractions you will keep yourself out of the “Valley of Death” and see your number of appointments increase dramatically.

265. Indeed, the Director’s role in getting others to purchase the Services Program is all but completely passive. The Workbook instructs the Director to bring qualified recruits to see the Ignite Opportunity presentation, not to sell the Ignite Services Program:

It will help you to remember that you are in 100% of the sorting business, not the selling business. In other words, you are not trying to “sell” Ignite to anyone. They will sort themselves in or out of the business once they see a presentation and have 100% of the information necessary to make a decision. It’s usually a timing thing for most people. What you have to do is be strong in your belief that no one can make a decision until they have seen a full business presentation. Then it’s up to them to decide what they want to do.

266. The Workbook gives the director a number of ways to invite potential recruits to an Ignite Opportunity meeting.

### **The Invitation**

The best approach to invite a contact to see the Ignite Opportunity is a direct one such as, “Let’s get together, I have a business deal/venture I’d like to get your opinion on.” Everyone likes to give their opinion.

Money is always an attention getter so you might say, “I’ve found a way to get paid on thousands of energy bills every month. Let’s get together, I’d like to get your opinion on it.” Or “Do you ever look at new ways to make extra money?”

Often people will want to know what it is, so don’t be evasive. “The name of the company is Ignite and it’s about deregulated energy. Let’s get together and I’ll show you how to get paid on thousands of energy bills every month.”

What you say is really not as important as how you say it. Enthusiasm is your greatest asset. If you’re excited then your contact will be excited too. Again, just get him or her in front of a presentation and the opportunity will

sell itself, just like it did for you. And remember to have a sense of urgency.

267. The Workbook emphasizes that the Director's priority should be to get new person to purchase the Services Program, not sign up for Stream energy. As Ignite states, if a person does not want to attend an Ignite Opportunity presentation, "[d]on't forget to ask him or her to be your customer if he or she doesn't want to be an associate. Go for an associate first, but he or she can always get started as a customer."

268. The Workbook stresses that the real financial benefit that a Director receives is from getting new associates and a few customers. The Workbook states "[b]ut the genius of the Ignite concept is that you only have to enroll a few customers yourself, yet you can get paid on hundreds and even thousands of customers as a result of a team of people enrolling just a few customers each, just like you."

**6.10.3 Empower magazine - a paid advertisement masquerading as a legitimate magazine.**

269. Ignite purchased an "EMPOWER" magazine edition in 2009. *EMPOWER* is given to prospective recruits and, from its appearance, looks like an independent magazine that just happens to feature Ignite. The *EMPOWER* edition given to Ignite prospects contains many articles about Ignite, but also contains a few advertisements for noncompeting products as well as charities so as to appear to be an independent publication.

270. The *EMPOWER* edition, in fact, is nothing more than an advertisement paid for by Stream, Ignite or both. The edition contains promotional statements by Stream, Ignite and all other defendants. It also includes a "Free Dual Disc Inside."

#### **6.10.4 “The Power to Do More” DVD.**

##### **6.10.4.1 A presentation showing the wealth that one can earn by buying the Services Program.**

271. The video presentation builds around a plot centering on a middle-aged man (a paid announcer) and starts the night before his retirement party. He is retiring because of his success with Ignite. He states that “[i]t’s simple, easy and generates recurring income for me and my family every single month.”

272. The announcer explains that Stream has grown to over \$1 billion in total revenues. He then states that Stream “still ha[s] only a small percentage of the multi-billion dollar energy market. I guess you could say it’s the best of both worlds, a proven track record in a market that’s still intact.”

273. The presentation also shows a number of Presidential and Executive Directors at a hotel retreat in Mexico. These individuals are shown by the pool, the beach and at a lavish party. It shows that these Presidential and Executive Directors are successful and wealthy.

274. Stout, a Presidential Director, says this on the video:

We are a licensed retail electric provider. We are a licensed natural gas marketer. When you talk about credibility, talk about integrity, we can look people in the eye and say, look we are licensed with the government to provide a commodity to the consumer. We are an energy company, that’s what we are.

Stout continues:

I got involved with Ignite quite frankly to make an extra \$1000 a month. That was the difference between us living in an apartment and getting to buy a house. I mean that was the difference. I had no idea what we would be blessed with through this company so it’s been pretty phenomenal.

275. Steve Fisher, a Presidential Director said this on the video:

It's a huge thing for us to have that kind of credibility behind us so when we go talk to our friends and our family and people that we do business with, we've got a company behind us that has a proven track record of success.

And we were able to take five vacations this year and nice vacations, something we would have never been able to do in the past but we created family memories with our daughter before she leaves to go to college and it's just been, it's been an incredible life change for us.

276. Greg McCord, a Presidential Director said this on the video: "The recognition from the outside, not just a biased opinion on us or other associates as coming from the outside is really for a new associate perfect timing because they can hit the ground immediately with that confidence."

277. Earnest Franklin, an Executive Director, said this on the video: "We have everything in place. We'll teach you word for word, step by step, how to get your business from point A to point B."

278. Donny Anderson, a Presidential Director, said this on the video:

One of the greatest enjoyments we've had in our business is helping other people achieve success for themselves. It's clearly a business where the more you help someone else succeed, the more you are going to succeed. And that's a real special thing to be able to help someone succeed and fulfill their dreams and obligations.

279. Yolanda and Kevin Harris, Executive Directors; Hedge, a Presidential Director; David Regis, an Executive Director; and Swagerty, a Presidential Director also participated in the "Power to Do More" presentation along with Domhoff.

280. The paid announcer, near closing, says this:

Ignite has a training system that anyone can follow. Why don't you begin by taking a look at that starter kit. A great thing about Ignite is that you are in business for yourself but not by yourself, you can make your own schedule, work from home, and you've got the support of both the

corporate office and the field whenever you need it. Now when Nicholas gets paid I get paid too. So you can imagine why I'm motivated to help him get off to a great start.

**6.10.4.2 Fisher's presentation promising that the Services Program is "the greatest financial opportunity in America today."**

281. The DVD also contains video of Fisher, a Presidential Director, making a presentation to potential recruits. Fisher states that he decided to purchase the Services Program based on the "presentation you are getting ready to see," even though that presentation did not exist when he purchased the Services Program. Fisher was in fact involved with Ignite at the inception of the pyramid and has, by that fact and his experience, a detailed understanding of the pyramid.

282. Fisher states that "You'll see over the next few minutes how Ignite has helped thousands of people just like you take advantage of this energy deregulation and provide what we believe is the *greatest financial opportunity in America today*." For Fisher, there is no doubt this statement is true for him and other Presidential Directors. However, Fisher, Stream, Ignite and all Presidential and Executive Directors know that most persons in the pyramid will fail.

283. Fisher represents that a purchaser of the Services Program can make money based on the labor of others:

At Ignite we only do two simple things. We enroll a handful of customers through our warm market, people that we know, people that we do business with, and then we teach others how they can get paid to do the same. We have a very simple marketing plan called 3 and 10. That's three business associates and ten customers and by duplicating this 3 in 10 model you can end up getting paid on hundreds or even thousands of energy bills each and every month. It's that simple. Now, to start your business with Ignite is \$329, with that you get all the tools and training and support that you need to successfully launch your business.

284. Fisher invites recruits to sign up for an Ignite Homesite. Other than allowing the Director's potential recruits to sign up, the recruits:

[S]ee a twelve minute video flash presentation that's just a slam dunk and they can join as business partners right on your website where you get credit for it. This website is \$19.95 [now \$24.95] per month and it's the only overhead that we have as Ignite business owners.

285. Fisher represents that the Services Program offers the potential to be paid large sums of Residual Income:

When [you] get those four customers in thirty days, you're paid that \$100 bonus. Now we use three as an example because that completes what we call the power unit which is you simply getting those three business partners and those ten energy accounts. By duplicating that over and over and over again you can end up getting paid on literally thousands of energy bills every month.

286. Thus, a Director is getting "paid on forty customers each and every month even though [he] personally ha[s] only gathered ten." Fisher does not disclose that between July 2007 and June 2008, 25.29% of the purchasers of the Services Program never received any income. He does not disclose that during the same months in 2005-2006, 35.55% of these persons received nothing. He does not disclose that Domhoff, a founder of Ignite, stated that 20% of purchasers of the Services Program never recoup their money (and that statement is itself untrue as it greatly overstates the percentage of purchasers that recover their money).

287. Fisher states that, as a Managing Director, you get more from your money, "you're paid that \$75 leadership bonus for every one that joins your Managing Director organization below that first level and gathers just two energy accounts in their first thirty days and these leadership bonuses are paid to unlimited depth."



288. Fisher continues his “unlimited depth” promise by taking it even further.

As an Executive Director:

[Y]ou’re paid an additional \$225 leadership bonus, that’s \$325 for everyone you personally sponsor, \$225 for every one that joins your executive director organization below that first level and gathers those two energy accounts. And guys, the significance of these leadership bonuses are in the fact that they are paid to unlimited levels. ***That’s geometric growth to infinity.***

289. Fisher is promising a benefit from a very rapidly growing number of new purchasers of the Services Program that will grow to infinity.

290. Fisher then invites individuals to purchase the Services Program. He states that the program offers “incredible income potential” when he knows that to be untrue.<sup>32</sup> He invites all that are “about to jump out of [their] skin because of what [they] just saw” to purchase the Services Program:

Just go the website of the person that invited you to look at Ignite and click on join Ignite and you can enroll as a director right on their website and you can immediately set up your own Ignite Homesite right then and be the first one to go to your website and become a Stream Energy customer where you get credit for it and I want to challenge you, get plugged into training as soon as possible . . . .

## **6.11 Links to Ignite Homesites proliferate across the World Wide Web.**

### **6.11.1 Website.**

291. As shown, Ignite, the Operators and the Presidential and Executive Directors stress the importance of recruiting new individuals to purchase the Services Program and join the pyramid. Members of the pyramid market the Services Program to the public through the internet. Examples above of internet marketing websites created

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<sup>32</sup>

This is no more true than when Swagerty promoted Excel as a “tremendous financial opportunity,” see ¶141.

by the Presidential and Executive Directors include PlugIntolignite.com and TeamExtreamTraining.com.

292. Other members of the pyramid have copied the examples set by the Presidential and Executive Directors. For example, a number of Directors are attempting or have attempted to get others to join their downline through *Yahoo!* Groups and a variety of other websites. Some have created their own websites. All of these individuals subscribe or subscribed to an Ignite Homesite. They use these other websites to draw potential persons to their Ignite Homesite.

293. These various websites demonstrate two important features of the pyramid. First, of the many persons who made the effort to advertise for potential purchasers for the Services Program, only a few are still maintaining their Ignite Homesites. Second, the representations that Ignite, the Operators and the Presidential and Executive Directors have made when selling the Services Program are being repeated throughout the internet. Stream, Ignite, the Operators and the Presidential and Executive Directors have done nothing to stop the proliferations of their representations. Obviously, as stated above, they freely make these representations to gather new persons to purchase the Services Program and encourage others to do the same. As such, the representations that the Directors make in their various uses of internet websites to attract persons are directly attributable to Ignite, the Operators and the Presidential and Executive Directors to an equal degree as if they had written the words themselves and published them on the internet.

#### **6.11.2 *Yahoo!* links.**

294. *Yahoo!* Group “launchnow,” created in about 2005, attracted at least four members. One of the members, Cuong (listing phone number 512-589-4895),

advertised to sell the Ignite Services Program, provided a link to his Ignite Homesite ([www.launchnow.igniteinc.biz](http://www.launchnow.igniteinc.biz)) and stated: "Get paid to turn on your lights today. Help others save money on electricity at no cost to switch. It's simple and growing fast. Don't miss this one! click on [www.launchnow.igniteinc.biz](http://www.launchnow.igniteinc.biz) now!" Cuong continues to operate his Ignite Homesite.

295. Yahoo! Group "lower electric-bill," created in about 2007, attracted at least three members. One of these members, Joe (214-448-0499), advertises the Services Program, provides a link to his Ignite Homesite ([1972.igniteinc.biz](http://1972.igniteinc.biz)) and states:

Save money monthly by lowering your residential electric bill. Creating powerful residual income thanks in part to the Texas deregulated electrical policy. Check out my web site for more details. <http://1972.igniteinc.biz>.

Joe continues to operate his Ignite Website.

296. Yahoo! Group "jdac\_no1," created in about 2008, attracted two members. Jonathan (214-715-2329) (a Texas number) made this statement: "We are committed to helping others gain financial Freedom through true residual income while staying at home and enjoying the family through HOME BASE BUSINESS [www.jdac.igniteinc.biz](http://www.jdac.igniteinc.biz)." This Yahoo! Group provides a link to the user's live Ignite Website.

297. Yahoo! Group "Igniteurfuture," created in about 2007, attracted at least nine members with this statement:

Own your own business by helping customers save 10-20% on their electric bills in Texas. Start your own home based business now! We will be seeking gas customers and business partners in Georgia by mid-summer, 2007. The next 2 states we will be going to are New York and Illinois! We are the 5th largest Retail Electric Provider (REP) licensed by the Public Utility Commission of Texas (PUCT) with annual sales of nearly half a billion dollars! This is a Multi Level Marketing(MLM) business with a simple business plan to save money on your electric or gas bills. You can earn money on thousands of other electric and/or gas customers. You do not have to get thousands of customers in this business. You can get

started by just helping yourself and your family and friends. We incorporate a simple business plan of 3 & 10. Get 10 customers and 3 business partners. Teach and help your business partners the 3 & 10 plan and you are on your way to building residual income that can give you extra money each month or life-changing money! Remember that everyone needs electricity and/or gas! To get more information and sign up for energy: <http://dthomps.igniteinc.biz> To get more info and sign up for your own business: [http://dthomps.igniteinc.biz/opp\\_presentation.asp](http://dthomps.igniteinc.biz/opp_presentation.asp) This has been a life changing adventure for many and while the business plan is simple, you must work consistently and talk to everyone you meet about this golden opportunity. We hope you join us for the ride of your life!

This *Yahoo!* Group provides a link to the user's dead Ignite Homesite.

298. *Yahoo!* Group "ClearChoiceelectricityderegulation," created in about 2006, attracted at least eight members with this statement:

The great American dream is to own your own business and take control of your financial future. The perfect vehicle for the 21st century entrepreneur is the deregulated electricity industry. The Ignite Opportunity has combined the power of business ownership and deregulated electricity to create the greatest financial opportunity in America today. If you want to make money or save money or both, then Ignite is your answer. "Ignite your future"; and make your dreams a reality. Signup at : <http://clearchoice.igniteinc.biz>

This *Yahoo!* Group provides a link to the user's dead Ignite Homesite. The user's statement that the Services Program is "the greatest financial opportunity in America today" is a false statement.

299. *Yahoo!* Group "texansletsmakesomeseriousmoney," created in about 2007, attracted at least seven members with this statement:

Are you like me tired of searching the internet for a great opportunity to make money. Well guess what I Have Found It. If you are a go getter wating to get rewarded monetarely wise for all your hard work then this is for you. Set your own hours, the harder you work the more money you can make. ITS GREAT at last IGNITE is here to make all our dreams come true. So dont waste any more time and lets get stared. I will help you the whole way. Email me at [fflores@gkcl.net](mailto:fflores@gkcl.net) and lets start making some serious money. VIST MY WEBSITE FOR MORE INFO AT [WWW.FIDELFLORESIII.IGNITEINC.BIZ](http://WWW.FIDELFLORESIII.IGNITEINC.BIZ)

This *Yahoo!* Group provides a link to the user's dead Ignite Homesite.

300. *Yahoo!* Group "ignite\_groups," created in about 2007, attracted at least six members with this statement: "Looking for a business with minimal startup, high customer demand and you earn income based on your personal or business electric usage. To learn more go to: <http://paulettegadison.igniteinc.biz> Paulette." This *Yahoo!* Group provides a link to the user's dead Ignite Homesite.

301. *Yahoo!* Group "seriousmoneymakersonly," created in about 2007, attracted at least five members with this statement:

Welcome. We are a group of people who are serious about making our current economical situations and our futures better, financially. We are networkers who are concerned about making life better for our families and their futures. We want to live comfortably now and later. We want to be able to secure finances for our children and our children's children. If you are interested, you are more than welcome to join our group. A real hot moneymaker right now is Ignite by stream energy. Go to [wildahatchett.igniteinc.biz](http://wildahatchett.igniteinc.biz). You can view what channel 8 news has to say about it. If you are interested, leave a message on that site.

This *Yahoo!* Group provides a link to the user's dead Ignite Homesite.

302. *Yahoo!* Group "texasteamwork1," created in about 2007, attracted at least three members with this statement: "Texas people making money and helping others. [jenniferlgordy.igniteinc.biz](http://jenniferlgordy.igniteinc.biz)." This *Yahoo!* Group provides a link to the user's dead Ignite Homesite.

303. *Yahoo!* Group "thepowervine," created in about 2008, attracted at least three members with this statement:

You talk to friends and family most days. You might even be one who can strike up conversations with strangers anywhere. How hard is it to discuss the cost of electricity? How about just simply suggesting they switch to Stream Energy where they might just save some money on their Gas (Georgia) or Electric (TX) bill? This is the easy job that everyone is looking for. Tell people how to save and switch just like you would with any other

company you truly appreciated... except here you make money for it! \*\*\*  
<http://thepowervine.igniteinc.biz> \*\*\* Go to the site and see what you can  
make by helping others save!

This *Yahoo!* Group provides a link to the user's dead Ignite Homesite.

304. *Yahoo!* Group "small-business-advertising," created in about 2006,  
attracted at least members with this statement:

INVESTMENT \$329 WEB PAGE [www.blc.igniteinc.biz](http://www.blc.igniteinc.biz) Email is  
[canfieldbryce@yahoo.com](mailto:canfieldbryce@yahoo.com) OVERVIEW OF EVENTS 1. Texas  
deregulated electricity in 1999 with passage of SENATE BILL 7. 2.  
January 2, 2002, The market officially opened for Texans to switch from  
four major electric companies. 3. IGNITE Inc. powered by Stream  
Energy has chosen to BUILD ITS CUSTOMER BASE by FRANCHISING.  
4. IGNITE signed up its 1st customer in Feb. 2005. THIS IS AN  
INEXPENSIVE GROUND FLOOR OPORTUNITY. For Details check out  
the web site [www.blc.igniteinc.biz](http://www.blc.igniteinc.biz).

This *Yahoo!* Group provides a link to the user's dead Ignite Homesite.

305. *Yahoo!* Group "charlob\_1," created in about 2007, attracted at least two  
members with this statement:

I'm looking to form a network of business partners that wouldn't mind  
getting paid residual income when people pay their electric bills every  
month. This includes a special promotion we have going on this month  
only. Please allow me to set an appointment with you so that we can  
discuss this. Whether you have a question about how I can help you save  
money on your electric bill, or you would like to discover for yourself how  
to become financially independent feel free to go to my website:  
<http://charlob.igniteinc.biz>

This *Yahoo!* Group provides a link to the user's dead Ignite Homesite.

306. *Yahoo!* Group "Martin1234," created in about 2007, attracted at least one  
member with this statement: "<http://www.angella.igniteinc.biz> Business opportunity, are  
switch electric companies." This *Yahoo!* Group provides a link to the user's dead Ignite  
Homesite.

307. Yahoo! Group “debopower,” created in about 2007, attracted at least one member with this statement:

IF You live in TEXAs and would like to save on your Utility bill, I work for a compnay called Stream Energy powered by Ignite. We beat any utility rate that you have. Two ways to join. First switch or become a Director by joining the team or both. I have been with the company for a while and noticed significant decrease in my utilities. For more information visit [www.debopower.igniteinc.biz](http://www.debopower.igniteinc.biz) We have upcoming seminars all over Texas. My contact info can be found on the left of the screen. all seminars are free and give detailed information on how you can make money by switching/and joining. Ignite is licenced by the state of Texas to drill and is in the Better Business Bureau. Check out the web site and spread the news. I will be updating the group with up coming seminars, time and location.

This Yahoo! Group provides a link to the user’s dead Ignite Homesite.

308. Yahoo! Group “merlyng,” created in about 2008, attracted at least one member with this statement: “MY WEBSITE: <http://merlyngorozco.igniteinc.biz>.” This Yahoo! Group provides a link to the user’s dead Ignite Homesite.

309. Yahoo! Group “texasopp,” created in about 2007, attracted at least one member with this statement:

Deregulation in Texas is making BIG \$\$\$ when it come to Energy! Exciting new company using direct marketing to sell electricity, not only does everyone use it they’ll save some money with us too! Let me show you how to get paid to turn on the lights! Visit my site at: [acs.igniteinc.biz](http://acs.igniteinc.biz).

This Yahoo! Group provides a link to the user’s dead Ignite Homesite.

310. Yahoo! Group “keyopportunity,” created in about 2008, attracted at least one member with this statement:

Live in Texas and want a cheaper electric bill or in Georgia and want a cheaper gas bill then Holla at you boi and check out my site. This is not spam, just trying to help others make in todays high priced World. Save money this year just go to <http://solomonkey.igniteinc.biz> Wanna join me and help others save just let me know and you to can have your own site and start help others overcome this energy crisis.



This Yahoo! Group provides a link to the user's dead Ignite Homesite.

**6.11.3 Various other websites linked to an Ignite Homesite.**

311. SearchSight.com, <http://searchsight.com/2560530-info.html>. On this web page, LaVerne (254-628-8268) (a Texas number) has an ad that directs visitors to <http://www.myhome.igniteinc.biz>, and states:

English Español Home Opportunity Energy Company Request Info Join  
Ignite This Site Hosted by: LaVerne Davis 254-628-8268 Email Find out  
how you can make money on your energy bill. Wouldn't you like to get  
paid every time you turn on the power? Learn how you can save money  
on your energy bill....

The ad contains a link to the advertiser's live Ignite Homesite.

312. Myspace.com, <http://www.myspace.com/igniteinc>. On this web page, Mathew lists his employment as "Independent Ignite Associate" with an annual income of between \$60,000 to \$75,000. He writes "[i]f your [sic] interested in helping people save money and making supplemental cash income, please contact me!!!" It is currently unknown whether Mathew's Ignite Homesite is dead or live.

313. Ernesto & Shirley (832-814-9605) pay Google to refer recruits to their Ignite Homesite [toes.igniteinc.biz](http://toes.igniteinc.biz). The Google ad states "Earn Extra Money, Get paid when you turn on your lights. Link below to learn how." The ad contains a link to the advertiser's live Ignite Homesite.

314. Uneed Corporation (404-909-1160) (a Georgia number) pays Google to refer recruits to its Ignite Homesite. The Google ad states "Big Ignite Opportunity With Savings on TX & GA Energy Bills!" The ad contains a link to the advertiser's live Ignite Homesite.



315. At the website, [www.Tribe.net](http://www.Tribe.net), Marissa (832-217-8956) (a Texas number) advertises to sell the Services Program. She attracted "Chris" who stated he thought Ignite was a "Great Opportunity." The ad contains a link to the advertiser's live Ignite Homesite.

316. Also at [Tribe.net](http://Tribe.net), Thom (214-683-8466) (a Texas number) ([powerfortexas.igniteinc.biz](http://powerfortexas.igniteinc.biz), which can also be accessed through his second website, [energypeople.us](http://energypeople.us)) advertises to sell the Services Program. Thom represented that Ignite was an "excellent business opportunity. Sell nothing new, just what you already use." The ad contains a link to the advertiser's live Ignite Homesite.

317. At [Tribe.net](http://Tribe.net), "Paul" in Dallas advertises to sell the Services Program and states:

I recently took the opportunity to become an associate with Ignite and am pleased with the program. The price for Stream is always lower than the other REPs (Retail Electric Providers) which makes it an easy sell. To view information for yourself go to [www.pharries.igniteinc.biz](http://www.pharries.igniteinc.biz) and it will give you all the pertinent information you need to make an educated chose for your electricity service. - Paul , posted 02/20/07

Paul's statement is false because Stream is not always lower than other retail electric providers. The ad contains a link to the advertiser's live Ignite Homesite.

318. At [Tribe.net](http://Tribe.net), "Alice" in Dallas advertises to sell the Services Program and states:

[L]owest electric rates in texas, excellent service

Is your electric bill high? Compare and see for yourself how you can save money by making the switch to Stream Energy. Go to our wed site [Texasbright.igniteinc.biz](http://Texasbright.igniteinc.biz) If need any more information call Alice Bowman at 817 847 7214 or 817 233 0330. [Texas phone numbers)Lets bring down the cost of electric. - alice , posted 04/01/05

Alice's statement is false because Stream does not have the lowest electric rates in Texas. The ad contains a link to the advertiser's live Ignite Homesite.

319. At Answers.yahoo.com, Joe (214-448-0499) (a Texas number) advertises to sell the Services Program and states: "Just doing my part to help people add a little scratch to their bank account and save a lil bit on their electric bill." Joe refers visitors to 1972.igniteinc.biz. The ad contains a link to the advertiser's live Ignite Homesite.

320. At www.Clipmarks.com. PUZZLERF advertises to sell the Services Program and states:

New and cheaper priced utilities for Texas and Georgia.

igniteinc.biz — Ignite offers a cheaper alternative to your current electric provider in Texas, and natural gas in Georgia. You can save a couple bucks on your monthly bill. Or join the affiliate program to earn money while you help your friends save money. Just type PUZZLERF in the blank field and hit submit to check it out. Redirect caused problems with digg

The ad refers visitors to www.pharries.igniteinc.biz, the advertiser's live Ignite Homesite.

321. On www.Craigslist.com, Sam (214-257-0500) (a Texas number) describes himself as an "IGNITE Independent Associate" who is a member of the "'EmPower Group." His listed email is power4me2@gmail.com and his Ignite Homesite is power4me2.igniteinc.biz. Sam's ad states:

We Are Looking For Housewives, College Students, Retirees, Full-Time/Part-Time Employees, Business Owners Or Anyone Who Is Interested In Owning There Own Business!

We Need Business Partners In Texas & Georgia! Stop Living Pay Check To Pay Check! Let Me Show You How To Add Another Source Of Income From The Very Profitable Energy Industry.

Anyone Can Do This Business! You Can Do It From Home, Work, On The Road, Part-Time or Full-Time Your Choice! You Have Total Freedom To Run Your Business As You Wish!

The Franchise Fee To Start Your Own Energy Business Is \$329 And For That Fee You Get Access To A Multi-Billion Dollar Electric Market In Texas & Natural Gas Market In Georgia!

I Am An IGNITE Independent Associate Who Sells Residential/Commercial Electricity In Texas & Natural Gas In Georgia.

- IGNITE Inc. Has Paid Over 100 Million Dollars In Commissions To Its Business Partners Since It Was Started In 2005!
- You Make 3 Types Of Income With Your Energy Business Residual Income (which is the most important), Immediate Income & Leadership Income.

If You Are Seriously Looking For A Recession Proof Business Then You Have Found It! The Information Is Free To See!

Visit My Website [www.power4me2.igniteinc.biz](http://www.power4me2.igniteinc.biz) for all the details. Please Click On The Opportunity Tab And Watch All The Videos.

After You Have Visited My Website And Would Like Additional Information. Please Contact Me Via Email So I Can Provide You With Information On One Of Our "Business Get Togethers."

322. At [www.gracedirectory.com](http://www.gracedirectory.com), Rich and Leslie (770-962-2848) (a Georgia number) advertise "**Employment:** Full-Time/Part-Time. This is an entrepreneurial opportunity with low startup expenses. It is possible to earn residual income on 1,000's of energy bills. To check out this business go to: [richleslie.igniteinc.biz](http://richleslie.igniteinc.biz)." They also have Ignite's permission to use this logo:



The ad contains a link to the advertisers' live Ignite Homesite.

323. At [www.startup.biz](http://www.startup.biz). Benjamin states “!!Urgent!! Business Partners needed in the Energy Business. Call 706-993-6434 (a Georgia number). Speak with Independent Associate or go to [www.roquegroup.igniteinc.biz](http://www.roquegroup.igniteinc.biz).” The advertisement contains a link to the advertiser’s live Ignite Homesite.

324. Independent website. Cliff Robertson decided to sell the Services Program through his Dallas real-estate business, [movetodayrealty.com](http://movetodayrealty.com). Robertson states:

Why give all of your money to the electricity company? Save some money and take your kids out for ice cream. When you rent from us, you can save even more money by lowering your electricity rates. Move Today Realty owner Cliff Robertson offers you a way to Save Money and Make Money on your electricity bills.

Mr. Robertson offers his unique view of Ignite:



Ignite also allowed Mr. Robertson to use its logo on his website. Robertson suggests that you “Jump to <http://www.crobertson.igniteinc.biz> to save money right now.”

325. At [www.collegeschool.net](http://www.collegeschool.net). John and Jennifer (713-589-9338) advertised to sell the Services Program and stated:

We are a homeschooling family of a now-six-year-old daughter. We have a home-based business opportunity to offer that works very well with the homeschooling environment. We travel the world bringing history and geography to life. Our company is in its third year of business, and we are seeing incredible results, not only in our financial life, but our personal and educational life as well. How many six year olds do you know of who have more stamps in their passports than most adults? Check out our webpage and if it resonates with you, complete the form and we will get back to you

with details. Or give John or Jennifer a call at 713-589-9338.  
[www.jjspark.igniteinc.biz](http://www.jjspark.igniteinc.biz)

John and Jennifer no longer operate their Ignite Homesite.

326. At [dreamoutloudtoday.com](http://dreamoutloudtoday.com), Latoya advertises to sell the Services Program, provides a link to her Ignite Homesite ([www.integrityunlimited.igniteinc.biz](http://www.integrityunlimited.igniteinc.biz)) and states:

Re: Inspire and Be Inspired!

My vision for this year is to be blessed to be a bigger blessing to others. I believe that "now is the time for the Saints of the Most High to rise up and possess the Kingdom." I am that saint and this is the time. My vision is to walk clearly with God, knowing His voice. My vision is to accomplish advancement up to executive director in my business this year as well. In turn, my family will be blessed with a stable income in this unstable economy and I will be able to spend more time in the field blessing others.

Latoya continues to operate her Ignite Homesite.

327. At [www.inetgiant.com](http://www.inetgiant.com), Marty (770-733-4398) advertises the Services Program. In her advertisement, she provides a link to her Ignite Homesite and states:

Hello, Ignite was founded in Dallas, Texas in December 2004 and is on track to be the fastest company to make over a billion dollars in revenue. That would make us the fastest growing company in American business history. To put it in perspective Wal-Mart did in 18 years, Google and E-Bay did it in 7 years and Yahoo did it in 6 years and they all sale throughout the world. We were only located in Texas for the past 4 years and we added Georgia in mid 2008. We have about 5.5% of the electricity market share in Texas. Are you a teacher at heart? Would you like to help people save money on electricity? You can do both!! Once you learn how to help people save money with the training we provide, then we want you to teach new associates how to do the same thing. You can promote quickly!! You don't have to be a good sales person. You only need to have only 10 energy customers as a Managing Director. See our business plan for details. Now that you know you don't have to be a good sales person, are you a team player? Do you like to manage people? Can you train and motivate people? Looking for hard working, dedicated people who like helping people. Training Provided. No Energy Experience Necessary. Come take a look at our one year retirement plan. Thanks for giving yourself an opportunity to retire young and avoid having to look for another

job again because everyone you know...uses energy. Quite honestly, everyone you don't know uses energy. I call that recession proof. We are looking for a business partner, not offering a job. Look, if you want to change your life, you have to start thinking different, hanging out with wealthier people, and people who have achieved success. Let me ask you...If you look at someone who has been doing what you're doing for 5 or 10 years longer, are they where you want to be? I didn't think so. Get in touch with me and let's start working on your new future. Marty Ducay  
Director 770-733-4398 Ignite Independent Associate

Marty continues to operate her Ignite Homesite.

328. On social networking site, Twitter ([www.twitter.com](http://www.twitter.com)), Louis (713-303-716) (a Texas number) offers residents in Texas low power rates, and residents in Georgia low gas rates through his Ignite Homesite, [LPorterSr.igniteinc.biz](http://LPorterSr.igniteinc.biz). Louis continues to operate his Ignite Homesite.

329. At [www.lightup4life.com](http://www.lightup4life.com), David (361-438-1971) advertised to sell the Services Program, provided a link to his Ignite Homesite ([lightup4life.igniteinc.biz](http://lightup4life.igniteinc.biz)) and stated:

#### **LIGHTUP4LIFE**

**AWESOME RESIDUALS FROM A PUBLIC UTILITY COMPANY BASED OUT OF DALLAS, TEXAS. THIS IS THE BEST MLM APPROACH IN THE NATION'S HISTORY. I AM LOOKING INDIVIDUALS WHO ARE WILLING TO GET OUT WHAT THEY PUT INTO IT. THIS IS THE NEWEST STYLE AND THE MOST UP TO DATE COMPANY AS WELL AS THE FASTEST GROWING RETAIL ELECTRIC PROVIDER ACROSS THE COUNTRY. AND ALL I HAVE TO SAY IS THAT YOU HAVE NOTHING TO LOSE AND EVERYTHING TO GAIN, PLUS, THE WORST CASE SCENARIO IS YOU WILL EARN YOUR MONEY BACK WITH VERY LITTLE EFFORT.**

The great American dream is to own your own business and take control of your financial future. The perfect vehicle for the 21st century entrepreneur is the deregulated electricity industry. The Ignite Opportunity has combined the power of business ownership and deregulated electricity to create the greatest financial opportunity in America today. If you want to make money or save money or both, then Ignite is your answer. "Ignite your future" and make your dreams a reality.

David continued:

### **Our Vision**

With the advent of energy deregulation, Texans now have greater options than ever before when it comes to their electricity provider. Now, they have the power to turn on greater savings, better customer service, and the use of renewable energy. And according to a survey conducted by the Public Utility Commission of Texas, the majority of customers find the process of changing electricity providers to be very easy.

These factors have created very dynamic and exciting circumstances for customers and the entrepreneurs who would compete for their patronage. And to meet the needs of both, a unique and inventive company was founded – Ignite.

Ignite embraces a philosophy we call "The Power of Business Ownership" – the combination of the unlimited potential of network marketing with the ever-present need that all customers have for energy service.

Ignite customers are provided electricity by our parent company, Stream Energy, who delivers more than just low rates. Our advantage over other electric providers is our community of Ignite Independent Associates who serve as personal energy points of contact. When you make the switch to Ignite, your Independent Associate offers you tailored one-to-one customer service you're not likely to find elsewhere.

As an Ignite Independent Associate, you benefit from our easy-to-understand, heavily incented compensation plan. It has several features that make it immediately attractive to both the discerning entrepreneur and the first-time business owner.

As a customer-focused company, Ignite pays you immediate income for helping your customers save money on their electric bills. And our leadership bonuses are based on your efforts at helping other Associates follow your example – namely, assisting their customers by providing lower energy rates.

Our leadership ladder is comprised of just four positions, so that it is even easier to achieve promotions and financial success than with many other compensation plans you may have seen. And we've loaded our residual income payouts with flat commissions that aren't dependent on usage levels, but rather on the number of customers you bring in and help others bring in. Plus, we pay residual income to you on all customers in your leadership organization, to unlimited levels.



With the Ignite Compensation Plan, you don't have to be a professional network marketer to make our opportunity truly work for you.

Whether you are an energy customer looking for better rates and service, or an aspiring entrepreneur looking to create a better way of life, you can depend on Ignite to help you electrify your possibilities.

David no longer operates his Ignite Homesite.

330. At [www.naymz.com](http://www.naymz.com), Joshua advertised to sell the Services Program, provided a link to his Ignite Homesite ([www.teamc.igniteinc.biz](http://www.teamc.igniteinc.biz)) and stated: "Find out how you can make money on your energy bill. Wouldn't you like to get paid every time you turn on the power? Learn how you can save money on your energy bill. Keep the same safety and reliability, and benefit from competition, too!" Joshua's Ignite Homesite is no longer active.

331. On the social networking site, [www.myspace.com](http://www.myspace.com), Alicia (325-396-5600) (a Texas number) advertises the Services Program, provides links to her Ignite Homesites ([GetBeachMoney.IgniteInc.biz](http://GetBeachMoney.IgniteInc.biz), [hequan.igniteinc.biz](http://hequan.igniteinc.biz) and [SwitchOnStreamEnergy.IgniteInc.biz](http://SwitchOnStreamEnergy.IgniteInc.biz)) and states:

If Not Ignite, What? If Not Now, When? "No Excuses, No Fear...FREEDOM!"-Presley "The Coach" Swagerty The #1 MONEY EARNER IN IGNITE GO TO MY WEB-SITE [www.SwitchOnStreamEnergy.IgniteInc.Biz](http://www.SwitchOnStreamEnergy.IgniteInc.Biz) Join Ignite and Be A Customer What Is It? Ignite is a Start Up Energy Business. Why Is It Good? You Can Make Money and Get Customers To Save On Energy Bills Every Month. How is This Possible? Everybody Pays Their Electric Bill Before Anything Else, This Creates Residual Income For Everybody Who Knows How To Work The System. Be In The Group That Is Glad They Did Or In The Group That Wished They Had. You Can Make Excuses Or You Can Make Money, You Can't Do Both. Whether Or Not You Can Or Can't, Either way You Are Right Want Information? Email: [GetBeachMoney@Gmail.Com](mailto:GetBeachMoney@Gmail.Com)

Alicia's Ignite Homesite is live.



332. At Craigslist.com, Gary (469-569-0570) (a Texas number) advertises the Services Program (a "Recession Proof Business is Expanding!! - \$329"), provides a link to his Ignite Homesite (SwitchOnStreamEnergy.IgniteInc.Biz) and states:

ATTENTION: Looking For A Recession Proof Business?? Stop Living From Pay Check To Pay Check!! Want To Help Others AND Make Money?

Housewives, College Students, Retirees, Full-Time/Part-Time Employees, Business Owners And All Who Are Interested In Owning There Own Business!

Business Partners Needed With Contacts In Texas & Georgia! I Will Show You How To Add Another Source Of Income From The Energy Industry.

All Homes and Businesses Use Electricity. And, in Georgia, You Can Hook Up People With Natural Gas. When They Do, Shouldn't You Profit?? I Can Show You How To Make Money Turning On People's Lights and Gas!!

Anyone Can Do This Business!! You Can Do It At Home, On The Road, Part-Time or Full-Time.

STREAM ENERGY Is The Parent Company Of IGNITE, Inc & IGNITE, Inc Is The Marketing Arm Of Stream Energy.

I Am An IGNITE Independent Associate Who Sells Residential/Commercial Electricity In Texas & Natural Gas In Georgia. You Have Heard About Stream Energy. I Can Show You How To Make Money Turning On People's Lights and Gas!!

\* \* \*

Visit My Website SwitchOnStreamEnergy.IgniteInc.Biz for all the details. Please Click On The Opportunity Tab And Watch All The Videos.

After You Have Visited My Website And Would Like Additional information, Please Contact Me So I Can Provide You With All the Information On How You Can Join Us And Change Your Future."

Get Paid When You Turn On The Lights and Gas!!

On information and belief, Gary's Ignite Homesite is still active..

333. Atkudzu.com, Mary (314-477-1230) (a Missouri number) advertises the Services Program, provides a link to her Ignite Homesite ([www.mclong.igniteinc.biz](http://www.mclong.igniteinc.biz)) and states:

Show people, just like you, how to make money and savemoney on their utility bill. We offer gas in Ga. and electric in Tx.

Visit my website at: [www.mclong.igniteinc.biz](http://www.mclong.igniteinc.biz)

Get paid immediate income for helping you and your customers save money on their utility bills. As an Independent Associate, let me show you how this is possible. Independent entrepreneurs are offered a very attractive business opportunity ? one that offers immediate income, leadership bonuses and unlimited residual income.

On information and belief, Mary's Ignite Homesite is still active.

## **7. THE PLAINTIFFS.**

334. In 2007, Buddy Barnett introduced Torres' in-laws and other church members to the Ignite Opportunity, which he claimed, "God had sent to him to enlist as many people as possible." Torres and his brother-in-law, Matthew Pekar, thereafter met with Barnett at a Mexican restaurant in Angleton, Brazoria County, Texas where Barnett explained the Ignite Opportunity to Torres and Pekar.

335. Torres and Pekar purchased the Services Program and an Ignite Homesite. Specifically, Torres purchased the Services Program on July 29, 2007. The next day, Torres had buyer's remorse and, together with his wife, decided to cancel the membership. He immediately met with Barnett at Brazosport College (where Pekar worked at the time), Barnett explained that he did not know how to cancel. Torres then tried calling a cancellation hotline provided by Ignite. The hotline did not provide a clear method to cancel, and Torres was unable to cancel within 3 days.

336. After that, Torres, believing that it was too late to cancel, began diligently trying to comply with the Ignite program (e.g. by going door to door). He was able to recover about \$150 over the course of a few months, and then he gave up when he realized he had no chance of success. After the first month of paying for the Ignite Homesite, he cancelled the credit card that Ignite billed, and his website subscription ended.

337. During February of 2009, Eugene Robison received a number of solicitations to take part in the opportunity of a lifetime by David Cottelesse, a former lawyer who Robison had used in the past. Robison finally agreed to meet Cottelesse.

338. At the meeting, Cottelesse and another ex-lawyer named Maurene (last name unknown) met with Robison. The meeting occurred at a Denny's restaurant on Washington Blvd. and I-10, Houston, Harris County, Texas.

339. Robison purchased the Services Program on February 18, 2009, and began to market Ignite and Stream to his family and friends immediately. Robison has never accomplished a single sale or recruitment.

340. Ignite sent Robison two Red Boxes by United Parcel Service ("UPS"). Upon information and belief, all individuals that have purchased the Services Program and joined the Pyramid at least since January of 2009 have received the Red Boxes by UPS from Ignite.

## **8. CLASS ACTION ALLEGATIONS.**

341. Torres and Robison bring this suit as a class action pursuant to the FED. R. CIV. P. 23(b)(2&3).

342. Torres and Robison bring this action individually and for a class tentatively defined as:

All purchasers of the Ignite Services Program (ISP) on or after June 30, 2005 who/that are not a defendant (or a spouse of a defendant/or a related business entity of a defendant).<sup>33</sup>

343. Torres and Robison's claims are typical of the claims of the class in that they became Ignite Directors because of the pyramid scheme.

344. Torres and Robison will fairly and adequately represent the interests of the class because their claims are typical of those of the class and their interests are fully aligned with those of the class. Torres and Robison have retained attorneys that are experienced and skilled in complex class action litigation.

345. Class action treatment is superior to the alternatives, if any, for the fair and efficient adjudication of the controversy alleged herein, because such treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently and without unnecessary duplication of evidence, effort and expense that numerous individual actions would engender.

346. The defendants have acted on grounds that apply generally to the class, *i.e.*, running a pyramid scheme, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.<sup>34</sup> If Torres and Robison prove that the defendants operate a pyramid scheme in violation of the RICO Act, the Court should enjoin the defendants from operating that pyramid scheme in the future.

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<sup>33</sup> While resisting the application of the Supreme Court of the United States' opinion in *AT&T Mobility LLC v. Concepcion*, \_\_\_ U.S. \_\_\_, 131 S. Ct. 1740, 179 L.Ed.2d 742 (2011), Torres and Robison recognized that the defendants may have refined their agreement to make it non-illusory, requiring arbitration and prohibiting a class action. Without discovery, Torres and Robison cannot state a final class definition.

<sup>34</sup> FED. R. CIV. P. 23(b)(2).

347. This case presents questions of law or fact common to class members that predominate over any questions affecting only individual members, and a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.<sup>35</sup>

348. The questions of law and/or fact common to the class, including but not limited to:

- a. Whether the defendants were operating an unlawful pyramid scheme;
- b. Whether the defendants encouraged or required class members pay money to the defendants for the illusory “right” to sell Ignite’s ISP;
- c. Whether the defendants engaged in acts of mail and/or wire fraud when encouraging class members to purchase Ignite’s ISP; and
- d. Whether the defendants caused injury to the business or property of class members.

These and other questions of law and/or fact that are common to the class predominate over any questions affecting only individual class members.

349. Torres’s and Robison’s claims are typical of the claims of the class in that they purchased the Ignite Services Program and subscribed to an Ignite Homesite.

350. A class action under FED. R. CIV. P. 23(b)(3) is superior because:

- a. No class member has an interest in individually controlling the prosecution of his/her/its separate action. No class member can be expected to incur the cost of attorneys’ fee and cost to recover their \$329 in the ISP and payments for an Ignite Homesite.
- b. There is no other pending litigation over these issues.
- c. It is manifestly desirable to concentrate the litigation of the class’ claims in Texas and this district.

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<sup>35</sup> FED. R. CIV. P. 23(b)(3).

d. The Court will encounter no difficulties in managing this case as a class action.

**9. THERE IS NO AGREEMENT BETWEEN TORRES, ROBISON OR THE MEMBERS OF THE CLASS AND IGNITE.**

Ignite and other defendants claimed that they had an agreement, including an arbitration clause, with Torres and Robison. The United States Court of Appeals for the Fifth Circuit has ruled that arbitration agreement between Torres and Robison and Ignite was illusory.<sup>36</sup> Ignite's entire agreement with Torres and Robison is thus nothing but an illusion because Ignite retained the right to unilaterally abolish or modify any of the terms of the agreement.

**10. THIS COMPLAINT STATES THE COMMON ELEMENTS OF THE RICO ACT 18 U.S.C. §§ 1962(c-d).**

**10.1 This complaint properly distinguishes RICO "persons" from RICO "enterprises"**

351. RICO requires that a "person" violate its provisions."<sup>37</sup> A RICO "person" includes any individual or entity capable of holding a legal or beneficial interest in property."<sup>38</sup> Generally, each defendant here is a RICO "person."

352. Stream Energy, in its defined component parts, is, in part, a legitimate business engaged in the retail sale of gas and electricity. Ignite is, in part, a legitimate business engaged in the marketing of Stream's retail sale of gas and electricity.

353. RICO "persons" are liable under RICO; RICO "enterprises" are not.<sup>39</sup> A defendant can be both a RICO "person" and part of another RICO "enterprise."<sup>40</sup>

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<sup>36</sup> *Torres v. S.G.E. Mgmt., L.L.C.*, 397 Fed. Appx. 63, 64 (5th Cir. 2010).

<sup>37</sup> 18 U.S.C. § 1962(c-d).

<sup>38</sup> 18 U.S.C. § 1961(3).

<sup>39</sup> 18 U.S.C. § 1962(b-d).

354. RICO also requires the involvement of a RICO “enterprise.”<sup>41</sup> An “enterprise” “includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.”<sup>42</sup>

355. Here, Torres and Robison allege the following:

- a. Ignite is a RICO “person.”
- b. Stream Energy is a RICO “person.”
- c. Each Presidential Director, *i.e.*, each person, combination of persons or combination one or more person and an entity as defined in §§ 1.2.4.2 –0 , is a RICO “person.”<sup>43</sup>
- d. Ignite, Stream Energy and the Operators are an “enterprise,” (*e.g.*, a *de facto* corporation acting as a single legal entity, or, alternatively, an association in fact).
- e. “The Pyramid” is an association in fact. It is composed of Ignite, Stream Energy and each Presidential Director. The Pyramid exists to sell the Ignite Services Program and reap profits that it then distributes among Ignite, Stream Energy and the Presidential Directors.

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<sup>40</sup> *Id.*

<sup>41</sup> 18 U.S.C. § 1964(a-d).

<sup>42</sup> 18 U.S.C. § 1961(5).

<sup>43</sup> For an example, in §1.2.4.4, the plaintiffs alleged that A.E. Trey Dyer, III, Sally Kay Dyer and Dyer Energy, Inc. jointly perform tasks in furtherance of the Pyramid scheme alleged below and will be jointly called “Dyer.” In this complaint, Dyer is a single RICO “person.”

**10.2 The defendants engaged in a “pattern of racketeering activity” by participating in a “scheme and artifice” to defraud in violation of the mail and wire fraud statutes, 18 U.S.C. §§ 1341 & 1343.**

**10.2.1 The defendants’ promotion of the Pyramid is a *per se* scheme to defraud under the mail and wire fraud statutes.**

356. The defendants have used false and fraudulent pretenses to deceive the plaintiff and the class. They have engaged in materially misleading statements of facts and nondisclosures of important facts. In all respects, the defendants have conducted their affairs unlawfully, intentionally, willfully and with intent to defraud, that is, knowingly and with the specific intent to deceive, in order to cause financial gain for themselves and for others, all to the detriment of Torres, Robison and the class.

357. First, each defendant has promoted the Pyramid that, by its very nature, is a *per se* scheme and artifice to defraud to obtain money by false pretenses. As detailed in this complaint, all defendants have promoted the Pyramid. Each of the enumerated acts of wire and mail fraud in furtherance of the Pyramid is an act of racketeering. The defendants’ promotion of the Pyramid is enough to state a RICO claim based upon their pattern of racketeering.

358. Second, the defendants have defrauded purchasers of the Services Program when selling the Services Program and promoting the Pyramid through numerous false statements, all to obtain profit. Examples of these statements include:

- a. Creating the false impression that Ignite’s multilevel marketing program and its Services Program are legal. Specifically, Snyder has represented that the Texas Attorney General has “confirmed the legitimacy” of Ignite and Stream’s multilevel marketing program.
- b. Creating the false impression that though the Pyramid, the majority of persons that purchase the Services Program will make a profit.



- c. Creating the false impression that the Services Program is “the greatest financial opportunity in America today” and has “incredible income potential.”
- d. Creating the false impression that the Services Program is a “ground floor” opportunity.
- e. Creating the false impression that purchasers of the Services Program can receive income for all downline associates to “unlimited depth” and that their income can grow to “infinity.”
- f. Creating the false impression that there are many available persons who will want to purchase the Services Program.
- g. Creating the false impression that the success stories featured by Ignite are typical or, in some cases, even possible.
- h. Creating the false impression that *Empower* was a legitimate magazine, with minimal ties to Stream or Ignite.
- i. Creating the false impression that the *D'Magazine* articles stating glowing comments about Ignite were the work of an independent journalist when they were not.

359. Third, the defendants have defrauded persons when selling the Services Program and promoting the Pyramid and omitting material facts for the purpose of and with the intention of defrauding by obtaining money from the victims. Examples of these omissions include:

- a. Failure to reveal that Ignite’s multilevel marketing program and its Services Program are illegal pyramid schemes.
- b. Failure to reveal that under Ignite’s multilevel marketing program and its Services Program the majority of purchasers of the Services Program will lose their money.
- c. Failure to clearly reveal Ignite’s highest paid directors’ income increased 277.40% from 2006 to 2010 while its lowest paid directors’ income in 2010 is only 33.87% of what it was in 2006.
- d. Failure to reveal that the Texas market for the Services Program is quickly becoming saturated and that the Georgia market for the Services Program will quickly become saturated as well.

- e. Failure to reveal that Domhoff, Stream, Ignite, the Operators and the Presidential and Executive Directors expected that the Texas market for the Services Program and customers would be saturated by 2007.
- f. Failure to reveal that the Texas Presidential and Executive Directors will have gathered Georgians into the Services Program to the loss of Georgia Directors.
- g. Failure to reveal that at least 25.29% of persons who purchase the Services Program will make nothing.
- h. Failure to reveal Domhoff's estimate that 20% of person that purchased the Services Program will not recoup their money.
- i. Failure to reveal that the stated success and wealth that Presley and Jeanie Swagerty, Steve and Diane Fisher and Brian and Beth Lucia have earned from their money in the pyramid is (i) no longer possible and (ii) that Swagerty and Fisher are among the top three money earners out of 110,000 Directors, or among the top .002% of the pyramid.
- j. Failure to reveal that the *Empower* magazine used to sell the Services Program was a paid advertisement and not a third party validation.

**10.2.2 To execute their scheme and artifices, the defendants have used and caused to be used mail and wire communications in interstate commerce.**

360. The defendants have transmitted, caused to be transmitted or invited others to transmit material, by mail or private or commercial carriers, such as UPS, for the purpose of executing their scheme or artifice to defraud in violation of 18 U.S.C. § 1341. Likewise, they have distributed the "Red Box" and "The Power Plan" DVD by UPS (mail) to many individuals, including two deliveries to Robison.

361. The defendants have transmitted, caused to be transmitted and invited others to transmit, by means of wire in interstate commerce, writings, signs, signals, pictures, or sounds for the purpose of executing their scheme or artifice to defraud in violation of 18 U.S.C. § 1343.

**10.3 This complaint properly alleges a “pattern of racketeering activity” as defined by 18 U.S.C. § 1961(5).**

362. RICO requires a “pattern of racketeering activity.” A “pattern of racketeering activity requires at least two acts of racketeering activity.” 18 U.S.C. § 1961(5). A “pattern of racketeering activity” can be a past conduct that by its nature projects into the future with a threat of repetition. It can also be a conduct over a closed period through a series of related predicates extending over a substantial period. Both of these apply here.

363. This complaint demonstrates that the defendants’ pattern of racketeering activity is well established. They have taken every imaginable step to sell the Services Program. They each also expect to continue to receive income from the Pyramid. With each new person, the defendants increase the value of their control of the Pyramid. Even as Torres and Robison files this amended complaint, the defendants continue to maintain websites and schedule meetings to sell the Services Program to others. The defendants have stated their intentions to continue to grow the Pyramid in Texas, to Georgia and throughout the United States. Indeed, their conduct and growing resources show the potential for them to do so. It is certain that their conduct is a continuing threat due to their racketeering activities.

**11. COUNT ONE: VIOLATION OF 18 U.S.C. §§ 1961(5), 1962(c).**

364. Section 1962(c) makes it “unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate . . . commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise’s affairs through a pattern of racketeering activity.”

365. Stream, Ignite and with the Pyramid are each “enterprises” engaged in activities that affect interstate commerce.

366. Stream is associated with Ignite and the Pyramid. It conducts and participates in the operation or management of Ignite and the Pyramid through a pattern of racketeering activity, *i.e.*, conducting the affairs and supporting the acts of the pyramid scheme. Stream directs, in whole or part, the affairs of Ignite and the Pyramid, including the operation of the pyramid scheme.

367. Ignite is associated with the Pyramid. It conducts and participates in the operation or management of Ignite and the Pyramid through a pattern of racketeering activity, *i.e.*, conducting the affairs and supporting the acts of the pyramid scheme. Ignite directs, in whole or part, the affairs of the Pyramid, including the operation of the pyramid scheme. Ignite carries out the directions of Stream.

368. The Presidential Directors are each associated with or employed by Stream, Ignite and the Pyramid. The Presidential Directors conduct and participate in the operation or management of Ignite and the Pyramid through a pattern of racketeering activity, *i.e.*, conducting the affairs and supporting the acts of the pyramid scheme. The Presidential Directors, in whole or part, direct the affairs of Ignite and the Pyramid, including the operation of the pyramid scheme.

369. Not only do the Presidential Directors have some part in the conduct of Stream, Ignite and the Pyramid, they control and direct their conference calls, websites, web presentations and speeches. Stream, Ignite and the Pyramid have authorized the Presidential Directors to direct their conference calls, websites, web presentations and speeches. Stream, Ignite and the Pyramid have authorized the Presidential Directors to

direct and control the marketing of Stream's gas and electricity. Ignite and Stream have authorized the Presidential Directors to use Ignite's and Stream's names and service marks and to speak on their behalf. Ignite and Stream assigned these persons the title and authority of "Presidential" Directors to denote their power within Stream, Ignite and the Pyramid. The Presidential Directors have fully exercised the powers that Stream and Ignite have authorized and assigned them. The Presidential Directors carry out the directions of Stream, Ignite and the Pyramid.

370. The Operators have complete and absolute control over Stream and Ignite and vast control over the Pyramid. The Operators are owners or employees of Stream or Ignite, and they are definitely associated or employed by Stream, Ignite and the Pyramid. The Operators conduct and participate in the operation or management of Ignite and the Pyramid through a pattern of racketeering activity, *i.e.*, conducting the affairs and supporting the acts of the pyramid scheme. The Operators, through Stream, Ignite and the Pyramid have authorized the Presidential Directors to direct their conference calls, websites, web presentations and speeches. The Operators, Stream, Ignite and the Pyramid have authorized the Presidential Directors to direct and control the marketing of Stream's gas and electricity and Ignite's Services Program.

**12. COUNT TWO: THE DEFENDANTS CONSPIRED TO VIOLATE 18 U.S.C. § 1962(C) AND ARE IN VIOLATION OF 18 U.S.C. §§ 1961(5), 1962(d).**

371. Section 1962(d) makes it "unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section."

372. Stream, Ignite, the Operators and the Presidential Directors have participated in a conspiracy to engage in Count One. Each defendant knew about and agreed to facilitate the pyramid scheme.

373. As stated above, each of the defendants has participated in the Pyramid and their participation is necessarily a combination of more than two individuals.

374. As stated above, the defendants' and the Nonparties' creation, support or maintenance of the pyramid scheme is illegal.

375. The defendants and the Nonparties had a meeting of the minds on the object or course of action, specifically to create, support and maintain the pyramid scheme for their financial benefit as evidenced by each defendant's voluntary and knowing participation in the pyramid scheme.

376. Each of the defendants and many of the Nonparties have committed one or more overt acts to achieve or further the unlawful objects and purposes of the pyramid scheme detailed herein.

377. The defendants used false and fraudulent pretenses to deceive persons of ordinary prudence and due care, and made material nondisclosures and concealments of fact and information that were important to understand their pyramid scheme. The defendants conducted their affairs unlawfully, intentionally, willfully and with the intent to defraud, for their own financial gain and benefit and for the financial gain and benefit of others, all to the detriment of Torres, Robison and others that purchased the Services Program.

### **13. PRAYER FOR RELIEF.**

Torres, Robinson and the plaintiff class request the following relief:

- a. Certification of the class;
- b. A judgment against the defendants;

- d. Damages in the amount of the financial losses incurred by Torres, Robison and the class as a result of defendants' conduct and for injury to their business and property, all as a result of defendants' violations of 18 U.S.C. § 1962(c) and (d) and that such sum be trebled in accordance with 18 U.S.C. § 1964(c);
- e. Temporary and permanent injunctive relief enjoining the defendants from further unfair, unlawful, fraudulent and/or deceptive acts, including, but not limited to, supporting the Pyramid;
- f. The costs of investigation and litigation reasonably incurred, as well as attorneys' fees in accordance with 18 U.S.C. § 1964(c).
- g. For such other damages, relief and pre- and post-judgment interest as the Court may deem just and proper.

**14. DEMAND FOR A JURY TRIAL.**

Torres and Robinson have previously demanded a jury trial.

Filed this 23 September 2011.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2011, this “Second Amended Original Class Action Complaints,” accompanied by “Torres and Robison’s *Opposed Motion for Leave to File Their Second Amended Complaint*,” has been served upon Clerk and the following counsel of record via the Court’s electronic filing system.

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